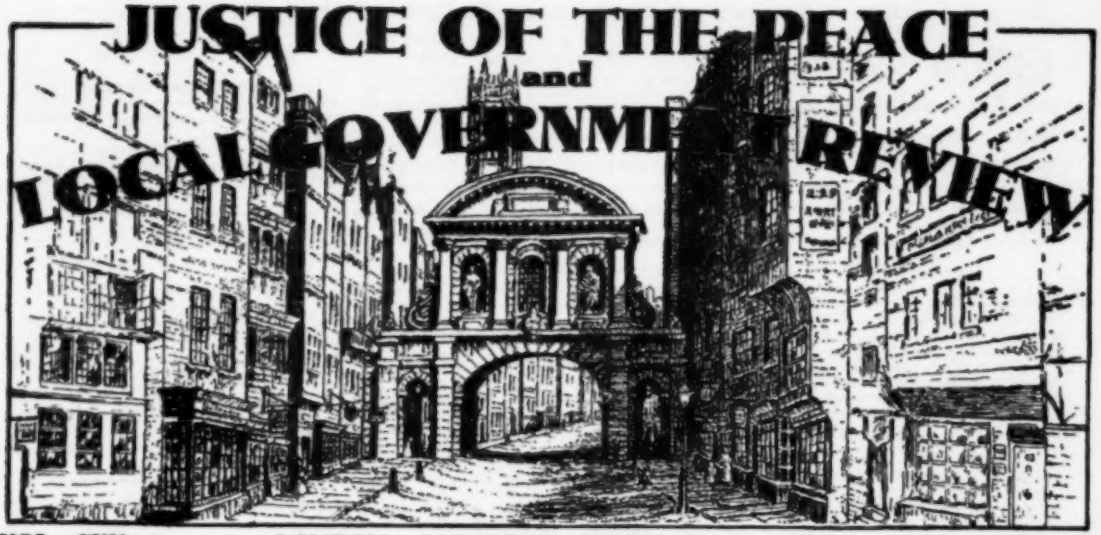

VOL. CXV. LONDON: SATURDAY, FEBRUARY 24, 1951. No. 8

CONTENTS

	PAGE
NOTES OF THE WEEK	113
ARTICLES:	
Committals for Trial and Sentence	116
The Great Transfer	119
The Committee of Public Accounts and the Equalization Grant	120
The Public Utilities Street Works Act, 1950—III	122
WEEKLY NOTES OF CASES	124
REVIEWS	124
LAW AND PENALTIES IN MAGISTERIAL AND OTHER COURTS	125
NEW COMMISSIONS	125
THE WEEK IN PARLIAMENT	126
PARLIAMENTARY INTELLIGENCE	126
PRACTICAL POINTS	127

REPORTS

Court of Appeal

Regor Estates, Ltd. v. *Wright*—Rent Control—Premium—Requirement of payment as condition of continuance of lease—Proviso for re-entry on breach of any of tenant's covenants—Agreement in 1948 to pay premium for grant of fourteen years' lease—Premium payable by instalments over ten years—First annual instalment of premium falling due after June 2, 1949 61

Leeds Assizes

Whitney v. *Whitney*—Divorce—Desertion—Termination—Intercourse on number of occasions with deserting spouse during attempts at reconciliation—Condonation—Deserting spouse's refusal to resume cohabitation—Revival of original desertion 71

Official Advertisements, Tenders, etc.

Official Advertisements (Appointments, Tenders, etc.), 2s. per line and 3s. per displayed headline. Miscellaneous Advertisements 24 words 6s. (each additional line 1s. 6d.) Box Number 1s. extra. *Latest time for receipt—9 a.m. Wednesday.*

BOROUGH AND COUNTY OF THE TOWN OF POOLE
(Population 82,000)

Assistant Solicitor

APPLICATIONS are invited for the appointment of Assistant Solicitor; salary in accordance with Grade VIII of the A.P.T. Division of the National Scale of Salaries.

Further particulars of the appointment, and forms of application may be obtained from the undersigned, to whom completed application forms should be returned not later than March 7, 1951.

WILSON KENYON,
Town Clerk.

Municipal Buildings,
Poole, Dorset.

BOROUGH OF GILLINGHAM

Appointment of Town Clerk

APPLICATIONS are invited for the position of Town Clerk of the Borough of Gillingham.

The commencing salary will be the minimum of the scale fixed by the Joint Negotiating Committee for Town Clerks and District Council Clerks for a local authority within the population group of 75,000—100,000.

The annual increments and conditions of service as fixed by the Committee will apply.

Particulars will be forwarded on request to the undersigned, and applications must reach me by Monday, March 12, 1951.

J. C. NELSON,
Town Clerk.

Municipal Buildings,
Gillingham, Kent.
February 12, 1951.

DORKING URBAN DISTRICT COUNCIL

Appointment of Clerk of the Council

APPLICATIONS for the above appointments are invited from solicitors having wide experience in local government law and administration.

The salary will be £1,200 rising by four annual increments of £50 to £1,400 per annum. The Conditions of Service of the Joint Negotiating Committee for Town Clerks and District Council Clerks will apply.

The appointment will be subject to the Local Government Superannuation Act, 1937, and to the passing of a medical examination. It will be terminable by three months' notice in writing on either side.

Further particulars and form of application can be obtained from the undersigned. Applications must be returned not later than March 1, 1951.

Candidates must disclose when applying whether they are related to any member or senior officer of the Council. Canvassing, directly or indirectly, will disqualify.

H. D. JEFFRIES,
Clerk of the Council.

Pippbrook,
Dorking, Surrey.

BERKS COMBINED PROBATION AREA

Appointment of Woman Probation Officer

APPLICATIONS are invited for the appointment of a whole-time Woman Probation Officer for the Berks Combined Probation Area.

Candidates must not be less than twenty-three nor more than forty years of age, except in the case of a serving whole-time Probation Officer.

The appointment will be subject to the Probation Rules, 1949 (as amended). Candidates should state whether they have, or are able to drive, a car. The successful candidate will be required to pass a medical examination.

Forms of application can be obtained by sending a stamped addressed envelope to the undersigned, and must be completed and returned not later than March 5, 1951.

H. J. C. NEOBARD,
Clerk of the Berks Probation (Combined Area) Committee.

Shire Hall,
Reading.

CITY OF BATH

Appointment of Assistant Solicitor

APPLICATIONS are invited for the appointment of Assistant Solicitor at a salary in accordance with Grade A.P.T. VIII of the National Salaries Scales (£685-£760 per annum).

Candidates must have had previous experience of advocacy, and local government experience is desirable.

The appointment will be subject to the Local Government Superannuation Act, 1937, and to the National Conditions of Service.

Applications, stating age, qualifications and experience, together with the names of two referees, must be received by the undersigned not later than March 3, 1951.

JARED E. DIXON,
Town Clerk.

Guildhall,
Bath.

COUNTY OF KENT

Petty Sessional Divison of Bromley

Appointment of Third Assistant Clerk

APPLICATIONS are invited for the appointment of a male third assistant to the Clerk to the Justices.

Applicants should have general magisterial experience and be capable of taking a court.

The commencing salary is £500 and it will be reviewed after the expiration of twelve months' satisfactory service.

Applications, stating age, present position and experience, together with two recent testimonials, should be sent to the undersigned not later than March 7, 1951. Envelopes should be marked "Assistant Clerk."

T. W. DRAYCOTT,
Clerk to the Justices.

The Court House,
South Street,
Bromley, Kent.

CITY OF LIVERPOOL

Female Probation Officer

APPLICATIONS are invited for the above full-time appointment.

Applicants must be not less than twenty-three years of age, nor more than forty years of age, unless at present serving as full-time Probation Officer.

Salary and appointment will be in accordance with the Probation Rules, and the successful applicant will be required to pass a medical examination and contribute to a superannuation fund.

Application forms can be obtained by sending a stamped and addressed envelope to the undersigned, and must be completed and returned not later than March 10, 1951.

H. A. G. LANGTON,
Clerk to the Justices and
Secretary to the Probation Committee.

City Magistrates' Courts,
Dale Street,
Liverpool, 2. (2504).

CHESHIRE COUNTY COUNCIL

Appointment of Assistant Solicitor

APPLICATIONS are invited from admitted solicitors for the above appointment, at salary in accordance with Grades A.P.T. VII-VIII (£635—£760) of the National Joint Council's Scales of Salaries.

Candidates must have had a good experience of conveyancing, advocacy in magistrates' and county courts and of instructing counsel. Knowledge of local government administration is not essential but will be an advantage.

The appointment will be subject to the provisions of the Local Government Superannuation Act, 1937, and will be terminable by one month's notice in writing on either side; and the successful candidate will be required to pass a medical examination.

Applications endorsed "Assistant Solicitor," stating age, qualifications, and experience, together with names and addresses of three persons to whom reference can be made, should be addressed so as to reach the undersigned by not later than first post on March 3, 1951. Canvassing, directly or indirectly, will be a disqualification.

N.B.—A review of the grading of this post is anticipated within the course of the next few months.

GEOFFREY C. SCRIMGEOUR,
Clerk of the County Council.

County Offices,
St. John's House,
Chester.

FOR SALE

Law Journal Reports (1823-1949) bound half-calf, complete 348 vols. with further year 1950 of *All England Reports*, complete, but unbound.
Common Bench Reports (complete 18 vols. with General Index).
Queen's Bench Reports (complete 18 vols.).
Vesey Reports (complete 20 vols.).

All the above reports in first-class condition.

All the above reports complete in beautifully constructed solid oak book-cases specially designed to hold same. £400. Book-cases £50 extra. Box No. B.24, Office of this paper.

Justice of the Peace
and
Local Government Review
[ESTABLISHED 1837.]

VOL. CXV. No. 8.
Pages 113-128

LONDON : SATURDAY, FEBRUARY 24, 1951

Offices: Little London, Chichester, Sussex.

[Registered at the General Post Office as a Newspaper]

Price 1s. 8d.

NOTES of the WEEK

Disqualifying Pending a Driving Test

In a recent number of the wireless programme " Dear Sir " —in which listeners' letters on a variety of subjects are broadcast—one writer, who described himself as a motorist of some years' standing, suggested, as a contribution towards decreasing the toll of the roads, that the courts should have powers to order a motorist to undergo a driving test. It was obvious from the wording of the letter, that the writer did not know that s. 6 of the Road Traffic Act, 1934, empowers a court before which a defendant is convicted of careless or dangerous driving, to disqualify him from holding a licence until he passes a test.

One of our correspondents comments that ignorance of the existence of these powers is widespread, and he suggests that this is due, at least in part, to the little use made of these powers. He writes that in a busy court, to whose figures he has access, there were in the first six months of 1950 six convictions for dangerous driving and fifty-seven convictions for careless driving ; in none of these sixty-three cases was any use made of the power given by s. 6, and indeed in only two cases was an order for disqualification made at all.

These figures are interesting although of course they throw little light on the position in the country as a whole. It occurs to us that one reason why the court referred to makes so little use of these powers is that it is of the opinion that the root cause of dangerous and careless driving is not lack of technical skill in driving, but selfishness, speed, and momentary lapses, which are not likely to be revealed in any driving test applied today. However, since there must be many motorists on the roads today who have not passed a driving test, it is perhaps useful that courts should be reminded of the existence of these powers.

Desertion and Cohabitation

It is not uncommon for a man against whom a maintenance order has been made to ask the court to treat it as having been brought to an end by the resumption of cohabitation, the fact being that, without re-establishing a common home, the parties have had intercourse with one another.

It is quite clear that sexual intercourse is not the same thing as cohabitation, and that the one can exist without the other. The case of *Mummery* v. *Mummery* [1942] 1 All E.R. 553, showed that the resumption of cohabitation involves a mutual intention to resume a joint married life, and that a husband who had deserted his wife and subsequently stayed with her for a night without intending to remain with her did not put an end to his desertion by a resumption of cohabitation.

The latest case is *Whitney* v. *Whitney* [1951] 1 All.E.R. 301, which was a case of cross-petitions for desertion. Willmer, J., found that the wife had deserted her husband. There remained questions as to whether she had put an end to that desertion, or whether it had been condoned. It appeared that the husband had on various occasions visited his wife at week ends in the hope of reconciliation and resuming a joint life. Intercourse had taken place. The wife had maintained throughout her determination not to live with her husband.

The learned judge held that desertion, once established, continued until it was proved to have been brought to an end, and that the fact that the husband had intercourse with his wife at a time when he was attempting to bring about reconciliation did not end the desertion. It was further held that, even if the husband must be taken to have condoned the desertion by having intercourse, that desertion was revived by the wife's repeated refusal to resume cohabitation. Other cases referred to included *Bartram* v. *Bartram* [1949] 1 All E.R. 270, in which, it will be remembered, Denning, L.J., made important observations upon the effects of attempted reconciliation.

The full judgment in *Whitney* v. *Whitney*, *supra*, with its quotations from earlier cases, repays careful study. The principles laid down apply to questions of the termination of desertion, condonation and resumption of cohabitation which may have to be decided in the magistrates' courts, just as they apply in the High Court.

Manslaughter Charge After Conviction of Dangerous Driving

A man who had been fined for dangerous driving appeared recently at assizes upon a charge of manslaughter in respect of the incident which constituted the lesser offence.

According to a newspaper report, Oliver, J., said it would be futile to try a man for the same act as that for which he had already been tried. " How can I possibly sentence him for anything more than that for which the magistrate sentenced him ?" he is reported as saying. " To inflict a heavier sentence, because by sheer accident the man died, would be preposterous."

After some legal argument and an adjournment, counsel for the prosecution said he would offer no evidence, and by direction of the learned judge the jury returned a verdict of not guilty.

Probably the trial, had it proceeded, would have proved futile. Upon an indictment for manslaughter, the jury could have found the defendant guilty of dangerous driving, by virtue of s. 34 of the Road Traffic Act, 1934, and that is the very offence of which he had already been convicted, so in the result he would have to be acquitted. This was not a case of pleading *autre fois convict*. The two offences were different, and the death of the victim of the accident, which we understand took place after the conviction for dangerous driving, was a new fact upon which the further charge could be preferred.

In *R.* v. *Thomas* [1949] 2 All E.R. 662, the prisoner had been convicted and sentenced for wounding his wife with intent to murder her. Within a year and a day after the wounding the wife died, and the prisoner was indicted for murder and convicted. He appealed, and the Court of Criminal Appeal held

that the earlier conviction could not be pleaded in bar, because the offence of murder arose only when the wife died. There was in that case a further point. The Court of Criminal Appeal held that as on an indictment for murder the jury could not find a verdict of guilty of wounding with intent to murder, the appellant had not been twice in peril of conviction of the same offence. In the recent case before Oliver, J., the appellant would have been in peril of conviction a second time of dangerous driving, which complicated the issue. There remained, however, the point that the death was an entirely new fact in the case, and that a charge of manslaughter could not arise until the woman died.

The whole question was exhaustively discussed and explained in *R.* v. *Thomas*, *supra*, and the earlier cases were reviewed.

Counselling and Procuring: a Point under the Licensing Act

The liability of a licensee for the acts and omissions of his servants is extensive. Many of the statutes were passed in times when drunkenness was prevalent, public houses were often badly constructed and badly managed, and it was necessary to place a heavy burden of responsibility upon licensees. The courts had to interpret the law as it was, and some decisions may seem a little hard on licensees, when viewed in the light of more modern conditions and far better public houses.

However, a recent decision shows that the licence holder is not always liable for everything that goes wrong in his house, even if his servants are at fault. In *Ferguson* v. *Weaving* (*The Times*, January 27), the Divisional Court dismissed an appeal by Case Stated where the respondent, a licensee, had been summoned for counselling or procuring the commission of offences by persons consuming intoxicating liquor after permitted hours. The magistrate dismissed the summonses and the prosecutor appealed.

It was admitted that the licensee herself was not present, but it was argued that she had delegated charge of the room to waiters, and that their knowledge of what went on was constructively her knowledge.

In delivering the judgment of the court, the Lord Chief Justice pointed out that while s. 4 of the Licensing Act, 1921, prohibited a licensee from selling or supplying either by himself or his servants intoxicating liquor outside permitted hours, and also prohibited the consumption in licensed premises of any intoxicating liquor after those hours, it did not make it an offence in the licensee to suffer or permit the consumption of liquor after hours. The only substantive offence was in the consumer. Lord Goddard went on to observe that a licensee who consciously permitted such an offence would be guilty of aiding and abetting, but the question was one of imputing to her the knowledge of her servants. He referred to various decided cases, and observed that certain offences under the Licensing Acts arose because the relevant statute imposed an absolute prohibition; for instance, selling liquor to a drunken person. If the Act had made it an offence for a licensee knowingly to permit liquor to be consumed after hours, then the fact that she had delegated the management and control of the room to the waiters would have made her knowledge their knowledge. But the substantive offence here was committed only by the customers. The court was not prepared to hold that knowledge could be imputed to her so as to make her not a principal offender but an aider and abettor.

It is entirely a matter of opinion whether the law should be altered so as to make a licensee liable in such circumstances. The Lord Chief Justice said that while it might seem curious that Parliament had not made suffering or permitting consumption of liquor outside of permitted hours an offence, nothing would be gained by discussing whether the omission appeared to be deliberate or accidental.

In Charge of a Motor Vehicle: a New Zealand Case

In the *Honorary Magistrate* for November there is reported the judgment of a stipendiary magistrate in the case of *Police* v. *Wedge*, where the defendant was charged with being in charge of a motor vehicle on a road while in a state of intoxication.

It appeared that a traffic inspector saw a motor truck parked at the side of the road, with one wheel missing, the axle being supported on a jack. Two men were with the truck, one of them being the defendant. The defendant was intoxicated. It was found that he was the owner and driver and that the other man could not drive. It was learned that the wheel had been removed and taken away to have the tyre repaired.

For the defence it was argued, the New Zealand case of *Sandford* v. *Graham* (1944) G.L.R. 45 being cited in support, that the defendant was not guilty of the offence, by reason of the removal of the wheel and the fact that the truck was therefore incapable of being operated or moved, so that there was no danger to the public. The headnote to *Sandford* v. *Graham*, *supra*, is: "that the statute contemplates a vehicle which is either being driven or at least is capable of motion. It does not apply to a car which is in such a condition as to be altogether incapable of being operated or moved."

The learned magistrate said, in the course of his judgment: "It is, however, advisable when applying any decided case to the facts of another case, to keep in mind one of the observations of Lord Halsbury in *Quinn* v. *Leatham* [1901] A.C. 495, at p. 506: 'Every judgment must be read as applicable to the particular facts proved . . . since the generality of the expressions which may be found there are not intended to be expositions of the whole law but governed and qualified by the particular facts of the case in which such expressions are to be found'."

The magistrate distinguished *Sandford* v. *Graham*, *supra*, from the case he was considering. In the former the car was by reason of an accident in such a condition as to be absolutely incapable of motion and as the Chief Justice said in his judgment, it could not even have been towed.

In the present case, went on the magistrate, it could not be said that the truck was not operable in any way. It would become operable as soon as the wheel which had been removed for tyre repair was replaced, and together with the intoxicated condition of the defendant was an actual danger in the immediate future or in any case a potential danger. Accordingly he convicted the defendant.

"A Family Affair"

The Central Office of Information has made for the Home Office and the Scottish Home Department the film "A Family Affair" (running time ten minutes) for general release during the next three months as part of a campaign to bring to the notice of the ordinary housewife the need for foster homes for children in public care. The film contrasts scenes of idyllic childhood with the tragic story of children who have lost their homes through cruelty, neglect, bad housing and the death of parents. Although institutions of today give children every care, and an example is shown of a most attractive institution, only a real home can give them the personal understanding affection which they need. Two small orphan girls are taken by the boarding out visitor to a short stay home to wait while their future is decided. Here they find kindness and safety and with the other children a kind of happiness, but the point is strongly and rightly made that however good the home,

and very good it should be, it cannot take the place of family life. The other side of the picture, the destructiveness of a boy who could be useful and reliable, and the magpie thefts of a small pickpocket hoarding a miscellany of objects from a thirst to possess, are symptoms of the children's need for a home and family they can call their own. The difficulty of placing older children is particularly stressed. Later scenes show children as happy members of the family and community in which they have been boarded out.

There are no professional actors in this film, which is acted for the most part by children in local authority and voluntary homes with local children, and which is touching in its direct appeal to the heart and the imagination. Already 25,000 children are living in foster homes. Homes are wanted for 20,000 more.

The Central Office of Information have made a 16 *mm.* version of the film (seventeen minutes) which will be available for showing to suitable audiences through the Films Officers of the C.O.I. regional offices.

Walsall Magistrates' Court

Among the items dealt with in the report of the work of the Walsall Magistrates' Court during 1950, there is a statement about legal aid to poor persons. It has often been said that the Poor Prisoners' Defence Act, 1930, meets practically all suitable criminal cases, and that what is wrong is that some courts make too little use of it.

That is evidently not the case in Walsall, and the report claims that the justices have continued to make full use of it. More than forty certificates, including two under the Summary Jurisdiction (Appeals) Act, 1933, were granted, and only seven were refused, and it appears that in several cases legal aid was offered by the justices themselves.

It is satisfactory to read that in spite of an increase in the work of the court there has been no need to increase the staff, the additional work since 1945 having been dealt with by improved methods and re-organization of the work generally.

The clerk to the justices has addressed thirty-five meetings of various organizations on magisterial and criminal law during the year. We agree with the justices as to the value of such work, which in their view helps to maintain a standard of work and to give the public an insight into the heavy responsibilities of justices of the peace.

Central and Local Government Exchanges

We have received from the Ministry of Education some notes upon a scheme for exchanging staff between the Ministry and local education authorities. The first exchange to be made under the scheme is with the city council of Birmingham: the Ministry are prepared to consider proposals from other local education authorities. Each of the officers concerned will receive his salary from his normal employing authority not from his temporary employer, and normal conditions of service will apply. We take it that this means that his hours of work will be those of the office where he is temporarily working, but that normal leave and sick leave will be according to the practice of the office to which he permanently belongs. We agree with the statement from the Ministry that the exchange is an interesting and potentially valuable experiment. It may be that, as is suggested in the notes which have been sent us, similar exchanges can usefully be made in future: there is possibly greater similarity in the education field than in local government generally, between the work which has to be done centrally and that of local authorities. It might be that in relation to other public services, such as agriculture, there is scope for similar exchanges, in order to enable officers to obtain experience on both sides of the line (such as it is) between national and local administrative work. Admittedly that line is everywhere less clearly defined than it was a generation ago. Nevertheless, we confess to being rather sceptical about the possibility of working these exchanges over a wide area. There is so great a difference in the technique required of the senior officer, according as he is working under a local authority (which means for the most part under a committee which itself takes responsibility), or under a Minister of the Crown responsible to Parliament, that it is—we should imagine—only in a very limited degree that experience in the one sort of office can be useful in the other.

School Discipline

From Lancashire there comes a story of the caning by a schoolmaster of seventeen boys aged twelve and fourteen, who played truant to watch a re-played cup tie. The facts seem to have been that each of the boys had paid 3*s.* or more, for admission to a match on a Saturday which did not take place, the date being changed to Tuesday. The headmaster warned boys that they could not take Tuesday afternoon away from school, even though they had paid for tickets. Seventeen of them ignored his warning, and received a punishment of two strokes of the cane on each hand—surely very slight, for a deliberate breach of discipline after warning. Notwithstanding the triviality of the punishment, it appears that some parents are making a grievance of the matter and complaining to the local education authority, on the ground that the headmaster could not reasonably expect boys to let the price of their tickets be wasted and accordingly (it seems) that the boys were entitled at their own good pleasure to ignore his warning. We hope that, by the time this note appears, the local education authority will have upheld the schoolmaster in no uncertain terms. The deliberate breach of discipline in the first place, and the desire to condone it and to condemn the schoolmaster, shown by certain parents, seem to us to be in line with some of the most unhappy tendencies of the present day, the sort of parental tendencies which lead straight to juvenile delinquency.

Admitting the Press

The Public Bodies (Admission of the Press) Bill had its formal first reading in the House of Commons last November, but the text did not become available till February. It has been set down for second reading on February 23, but its position on the order paper may prevent its being reached, since in front of it on that day are two other Bills, dealing respectively with transport and with river pollution, proceedings on which could be spun out. It is a private member's Bill backed by members of all parties, and should, in our opinion, be supported in principle by all who are concerned with local government. We say "in principle" because there are some items which we do not feel fully competent to judge—for example, the proposal to apply the provisions of the Bill to hospital management committees under the National Health Service Act, 1946, and to consultative or consumers' councils established under the nationalization statutes. We can conceive its being argued that the full and frank voicing of consumers' grievances and suggestions at meetings of these last named bodies might be less valuable if there was temptation to talk for publication, or that a hospital management committee would have so many matters to consider of a confidential or semi-confidential nature, calling for *ad hoc* exclusion of the press, that a general rule of admitting the press might turn out to be of little value. We do not know enough about the bodies mentioned, to be able fully to appraise this argument if it is advanced.

In that part of the sphere of operation of the Bill where we can speak with experience, namely its application to local authorities in the ordinary sense, and to their committees and their derivatives like educational and health "executives," the Bill would introduce a measure of reform which we have long been convinced is essential, if local government is to retain public confidence.

The Local Authorities (Admission of the Press to Meetings) Act, 1908, recognized the principle that local authorities ought not normally to exclude press representatives from meetings, whilst allowing them to do so *ad hoc* for special reasons which —be it noted—must be "in the public interest." Nobody, so far as we know, has ever dared openly to challenge the propriety of this enactment, and most people probably agree that the Act did well to exclude committees, with certain named exceptions, *i.e.*, to exclude the meetings of ordinary committees of local authorities. But with the lapse of time the usefulness of the Act has grown less and less, largely because of the ever growing delegation to committees, which automatically puts outside the Act the discussion of all matters on which the committee has power of decision without the need of ratification by the council. This delegation is essential; in that respect the change made in 1933 was right, but it leaves, in regard to publicity, a real blot on the existing law; the strongest reason for passing the Bill which is now before the House of Commons is that it will bring under the heading of "local authority," for the purpose of admission of the press, committees exercising delegated powers. By bringing committees consisting of all members of the council under the same obligation as the council itself, the Bill if enacted will kill the objectionable practice (we are tempted sometimes to call it the pernicious practice) of going into committee of the whole council, in the course of a council meeting, where there is no good reason. This practice is too often adopted when there is something to be debated privately, and those who arrange the council's business are reluctant to come into the open and propose a resolution under the proviso to s. 1 of the Act of 1908: the inference most naturally to be drawn is that they could not establish "public interest" in the terms of that proviso. The parallel practice would also be killed of having a general purposes committee, comprising all members of the council, the decisions reached by the general purposes committee being afterwards ratified automatically by the council at a formal meeting—a practice which some would say is even more objectionable, because of its association with the caucus system, and because it means that most of the council's serious work can be done, without the presence of the press and without complying with the provisions in sch. 3 to the Local Government Act, 1933, for giving notice of business in advance.

If, as we hope, the Bill receives a second reading (which it may even have done before the date of publication of this note) it will need at least one amendment in committee, namely to define "local authority." The Bill is not to be construed with the Act of 1908: it hardly could be so construed since its scope is so much wider. It could, however, import the definition from that Act, which (though in part inapplicable today and in part repealed) is wide and useful.

COMMITTALS FOR TRIAL AND SENTENCE

[CONTRIBUTED]

This article will review the provisions as to committal for trial and sentence from magistrates' courts; it will be seen that there are important differences between the two procedures.

COMMITTALS FOR TRIAL

It is unnecessary to say anything as to the cases which can be committed for trial or as to the taking of depositions, save that where a juvenile or person of defective intelligence is being examined as to his capacity to take an oath, it is desirable that the actual questions asked of the witness and his answers on this point should be recorded on the deposition. (*See* the Report of the Departmental Committee on Depositions (1949) Cmd. 7639, para. 17.)

By the Criminal Justice Act, 1925, s. 12, as soon as the examination of each witness for the prosecution has been concluded and his deposition read, he must "forthwith" be bound over to attend the trial and, by s. 20 of the Indictable Offences Act, 1848, "at the same time" be given a notice of his recognizance signed by the justice. Witnesses for the defence (other than witnesses merely as to character) also should be bound over to attend the trial (*see* s. 12 (5) of the 1925 Act).

It will be often impracticable in the early stages of the preliminary examination to tell to which court the defendant will be committed or whether the attendance of witnesses will be required there; as the witnesses should have left the magistrates' court after being bound over (*see* para. 23 of the cited report), the Indictable Offences Rules, 1926, indicate the notices to be given to them in the event of committal to another court or their attendance not being required.

Witnesses may be "conditionally bound," under the Criminal Justice Act, 1925, s. 13, by reason of:

(*a*) Their evidence being of a formal nature (for example, *see Douglas' Summary Jurisdiction Procedure*, 10th ed., p. 264); or

(*b*) The accused having pleaded guilty to the charge, *i.e.* after the statutory caution (*see* 110 J.P.N. 377); or

(*c*) Anything contained in any statement by the accused. *Stone*, 1950, p. 48, note (*e*) and *Lieck and Morrison* on the Criminal Justice Acts, 2nd edn., p. 91, take the view that "statement by the accused" refers only to a statement made in court but the Committee on Depositions express the opinion, at para. 61 of their report, that for the purposes of s. 13, justices may take into account a statement by the accused, proved to them in evidence, whenever it was made.

Section 13 (2) requires the examining justices, on committing the accused for trial, to inform him that he has the right to require the attendance at the trial of any witness conditionally bound, and further indicates the procedure for securing the attendance of such witnesses there (*see* also the Indictable Offences Rules, 1926, r. 8).

The prosecutor, on the case being committed for trial, should be bound over to prosecute at the trial (Indictable Offences Act, 1848, s. 20) but no person should be so bound if the proceedings are instituted, undertaken or carried on by the Director of Public Prosecutions (Prosecution of Offences Act, 1879, s. 7). In *R.* v. *Bushell* (1888) 52 J.P. 136, defendant had been committed for trial in a private prosecution but a police officer had been bound over to prosecute by the magistrates' clerk. Two counsel appeared, for the police and the private prosecutor respectively, at Assizes, the magistrates' clerk having instructed the former.

Lord Coleridge, C.J., censured the magistrates' clerk and said that the private prosecutor should have been bound over to prosecute.

The statutory caution should be put to the accused before any submission is made that there is no case for committal; if, however, he or his solicitor makes it before such caution, this may be in order (*R.* v. *Berry* [1947] 32 Cr. App. R. 70). Cases of a grave or difficult nature, though triable at sessions, may be committed to Assizes and cases under reg. 55 (General Control of Industry) and reg. 55AB (Price Control of Goods and Services) of the Defence (General) Regulations, 1939, and reg. 6 of the Defence (Price Control) Regulations, 1945, must be committed to Assizes if the Director of Public Prosecutions so certifies. Offences which may be tried by a court of quarter sessions having a legally qualified chairman are set-out in sch. 1 to the Administration of Justice (Miscellaneous Provisions) Act, 1938, and the term " legally qualified chairman " is defined in s. 2 of that Act. The recorder of a borough with a population under 50,000 and the chairman of a county sessions not appointed under s. 1 of that Act or not having held an office specified in s. 2 (3) are not " legally qualified " chairmen.

If the offence is triable only at Assizes, the accused cannot be committed to any Assizes other than those for the county for which the magistrates act if the latter Assizes are to be held within one month from the date of committal (Criminal Justice Act, 1925, s. 14, as amended by the Administration of Justice (Miscellaneous Provisions) Act, 1938, s. 6). Moreover, it seems that he can be committed only to the next Assizes and not to the next-but-one county Assizes (even though it may be known that the state of health of an essential witness may prevent her attendance at the next Assizes, so that the case will have to be adjourned to other Assizes), for the Indictable Offences Act, s. 20, requires committal to the " next " Assizes. If the next Assizes are unlikely to begin till a date more than a month from the date of committal, the accused under s. 14 may be committed to the Assizes for some other place with a view to expediting his trial or saving expense, unless he would suffer hardship thereby. He may even, apparently, be committed, if it saves expense, to the Assizes for another county to be held after the next Assizes for his own county if the latter are not held within a month. Judges of the High Court have deprecated the use of the Central Criminal Court as a " dumping ground " for cases from all over the country and cases should not be sent there under s. 14 save in exceptional circumstances (*see* 108 J.P.N. 217 and 222).

When a person is charged before magistrates with two or more indictable offences committed in different counties, it may be that he can be committed to the Assizes for either county, by virtue of the Criminal Justice Act, 1925, s. 11 (2). A like rule would apply in respect of offences committed in places having separate courts of quarter sessions.

If the case is triable at quarter sessions, s. 14 applies in like manner and committal may (subject to a plea of hardship) be to the sessions for some other place if the sessions for the relevant county or borough are not to be held within a month. Also, by s. 14 (5), where any person to be committed to sessions is admitted to bail, the examining Justices may, if the next sessions for the relevant county or borough are to be held within five days of the date of committal, commit him to the next sessions but one for that county or borough if they are due to be held within eight weeks. The Assizes Relief Act, 1889, s. 1, further permits the accused (in the case of an offence triable at sessions) to be committed, on bail or in custody, to the " next practicable " quarter sessions; this section, it is submitted, does not of itself authorize committal to the sessions for any other place. At 111 J.P.N. 229 reference is made to the common practice of committing to the next sessions but one (for the same place) pursuant to s. 1, if it is really impracticable to commit to the next sessions, and the opinion is expressed that such a committal is in order.

What is the position, in the case of an offence triable at Sessions, if the next Assizes for the same place are to be held within one month? It is submitted that the wording of s. 14, as amended, does not preclude the case from being committed to the sessions for some other place, as there seems to be a distinction drawn in the section between offences triable only at assizes and other indictable offences. Obviously, the justices may anyhow commit the accused to the next sessions for the same place.

The Assizes Relief Act, for reasons which its short title explains, provides that persons committed for trial by magistrates, whether on bail or in custody, for offences triable at sessions should be committed to the next practicable quarter sessions unless the magistrates for special reasons think fit to direct otherwise. At 78 J.P.N. 4, Lord Reading, C.J., indicated the circumstances which would authorize magistrates to commit such offences to Assizes, but the Administration of Justice (Miscellaneous Provisions) Act, 1938, s. 6, now enacts that such offences shall not be committed to Assizes unless they are unusually grave or difficult or serious delay or inconvenience would be caused by committing to sessions. At 102 J.P.N. 821, there is recorded a protest of Atkinson, J., at the committal to Assizes of " trumpery " cases, in particular one of larceny of trousers value 30*s*. On the other hand *see* 113 J.P.N. 437 and *Archbold*, 32nd. edn., p. 91, as to Judges of Assize delivering the gaols of prisoners committed to quarter sessions. A Home Office Circular dated January 17, 1939, states that cases within the area of the Central Criminal Court undertaken by the Director of Public Prosecutions may properly be committed to that Court.

Where a person is committed for trial by magistrates for misdemeanour and not admitted to bail, he must be told of his right to apply to the High Court for bail (Criminal Justice Administration Act, 1914, s. 23).

Examining justices cannot commit a case for trial to Assizes on or after commission day or to sessions on or after the first day (*R. v. Maddison* [1948] 33 Cr. App. R. 30; 112 J.P.N. 750). In the first case, however, Byrne, J., while holding the committal bad, granted leave to prefer an indictment under the Administration of Justice (Miscellaneous Provisions) Act, 1933, s. 2 (2), and it is suggested that where justices complete a preliminary examination on or soon after such commission or first day, they should adjourn the case without committing it and invite the prosecution to apply under s. 2 of the 1933 Act to a judge of the High Court or commissioner of Assize for leave to prefer a bill accordingly. Byrne, J., stressed that such a procedure should not be adopted where it would be appropriate to commit to the Assizes or sessions for some other place, under s. 14 of the 1925 Act.

COMMITTALS FOR SENTENCE

Magistrates may commit for sentence under (1) the Vagrancy Act, 1824, s. 5, (2) the Criminal Justice Act, 1948, s. 20, and (3) s. 29 of the same Act. Unlike magistrates committing for trial, they may commit only to the quarter sessions having jurisdiction in their area and not to Assizes at all.

(1) A person convicted of certain offences, *e.g.*, loitering with intent to commit a felony, being found in a house, etc., for an unlawful purpose or indecent exposure with intent to insult females, such person having been previously convicted of an offence (not necessarily of the same type) under the Vagrancy

Act, 1824, s. 4, or a person convicted of an offence under s. 4, who violently resisted arrest, shall be deemed to be an incorrigible rogue and may be committed, in custody, to the next quarter sessions for sentence (*see* s. 5). Section 9 requires the committing magistrates to bind over the person who arrested the offender and any other material witness to appear at sessions. An offender cannot be committed to Assizes under s. 5 (*R.* v. *Ward* (1883) 15 Cox C.C. 321). It is also submitted that there is no power to commit to any sessions other than the next sessions for the county or borough for which the committing justices act, for the procedure at sessions is in effect the same as that in respect of youths committed with a view to being sentenced to borstal training (*see infra*) and it has been held that such youths can be committed only to the sessions for the area for which the committing magistrates act (*R.* v. *Yeomans* (1947) 111 J.P. 458). Incorrigible rogues so committed cannot, it seems, be released on bail unless they appeal against their conviction.

(2) A person convicted by a magistrates' court of an offence punishable summarily (in the case of an adult) with imprisonment, who is, on the day of conviction, not less than sixteen but under twenty-one years old, may be committed in custody to quarter sessions if, having regard to his character and previous conduct and the circumstances of the offence, it is in the opinion of the justices expedient that he should undergo borstal training (Criminal Justice Act, 1948, s. 20). There is now no power to commit to Assizes for this purpose and the offender may be committed only to the next sessions for the area for which the committing magistrates act (*R.* v. *Yeomans*, *supra*). In counties the appeal committee of the sessions will deal with the offender (*see* s. 20 (4)). No-one apparently need be bound over to prosecute or to appear at sessions (*see* 114 J.P.N. 228). There is no power to release offenders on bail and (until remand centres are established under s. 48 of the 1948 Act) they must all, whether under seventeen or not, be committed to prison, but until the magistrates have obtained a report from the Prison Commissioners as to his suitability for borstal training, a person under seventeen shall be remanded to a remand home, unless too unruly or depraved (*see* s. 27 (2)). When remand centres have been established, the offenders will be remanded to them at all stages. Magistrates cannot commit for sentence under s. 20 until they have received the Prison Commissioners' report.

(3) A person of seventeen years of age or over, when convicted summarily of an offence under s. 24 of the Criminal Justice Act, 1925, or under s. 28 (2) of the Criminal Justice Act, 1948, may be committed to quarter sessions (but not to Assizes) for sentence if the convicting magistrates consider that his character and antecedents are such that greater punishment should be inflicted in respect of the offence than they have power to inflict (*see* s. 29 of the 1948 Act). Such committal must be in custody (*R.* v. *South Greenhoe JJ. ex parte D.P.P.* (1950) 114 J.P. 312). The only offences for which an offender may be committed for sentence under s. 29 are :

(*a*) Offences specified in the Second Schedule to the Criminal Justices Act, 1925, (as amended) ; and

(*b*) Offences expressed by statute to be punishable either summarily or on indictment, which have been begun before the magistrates as if they were indictable but have been switched to summary trial, under s. 28 (2) of the 1948 Act. There is no power to commit for sentence where such an offence has been dealt with summarily from the start under s. 28 (1) (*R.* v. *South Greenhoe JJ.*, *supra*).

Further, a person guilty of an offence of a nature specified in (*a*) and (*b*) cannot be committed for sentence if that offence is not triable at quarter sessions but only at Assizes (*R.* v. *Middlesex Quarter Sessions, ex parte D.P.P.* (1950) 114 J.P. 276). Such offences include certain of fraudulent conversion, corrupt practices at elections, bribing agents and misdemeanours under the Official Secrets Acts.

The magistrates, under s. 29, cannot, it is submitted, commit to the sessions for some other place, but can only to the next (and not to the next-but-one) for their own place. In counties the appeal committee of sessions will deal with the offender. It is not clear whether an offender convicted summarily of an offence triable at sessions only if there is a " legally-qualified chairman " may be committed for sentence to sessions which has no such chairman. It is arguable, however, that s. 29 (3) (*a*) is so worded as to permit him to be so committed.

When remand centres are available, offenders under twenty-one should be committed to them pending the sessions ; at present they must await the sessions in prison.

Persons found guilty of offences to which s. 29 does not apply cannot be committed for sentence, however bad their records (unless they are suitable for borstal training or the Vagrancy Act applies). Where an offender charged with an offence punishable either summarily or on indictment has a bad record, the prosecution should either seek his committal for trial or proceed under s. 28 (2) of the 1948 Act (*see* 114 J.P.N. 466). If, however, the offence is punishable on summary conviction only but the accused (and only the accused) may elect to be tried on indictment as the punishment exceeds three months' imprisonment, there is no way of getting him before the sessions at all if he elects for summary trial. Thus, there is no power to commit for sentence (save under s. 20) for several offences under the Larceny Act, 1861, for making false statements to obtain driving or road fund licences, national assistance or health benefit, or for driving while disqualified.

At 114 J.P.N. 228, the opinion is expressed that there is no need to bind over anyone to prosecute on a committal under s. 29. A defendant with no previous convictions, who on summary conviction for larceny asks for many more cases of larceny to be taken into consideration, may properly be committed for sentence under s. 29 (*R.* v. *Vallett*, [1951] 1 All E.R. 231). Lord Goddard, C.J., stated in *R.* v. *Middlesex Quarter Sessions*, *supra*, that indictable offences of a grave nature should not be tried summarily merely because they may be so tried, even though the offender can be sent to sessions for sentence. Such offences should be sent for trial.

On a committal for sentence under the Vagrancy Act, the magistrates' clerk need apparently send no documents to the clerk of the peace and it is for the prosecution to obtain copies of the convictions, notes of evidence, etc. On committals for sentence under s. 20 or s. 29 of the 1948 Act, however, the magistrates' clerk must send to the clerk of the peace the documents specified in r. 55 of the Summary Jurisdiction Rules, 1915, as substituted by r. 1 of the like Rules, 1948 (*see Stone*, 1950, p. 2,576). Where no depositions or notes of evidence have been taken, two courts of quarter sessions of which the writer has knowledge have accepted a *précis* of the prosecuting solicitor's statement or copies of the statements of witnesses who would have given evidence plus (in both cases) the accused's own statements.

May an offender be committed for sentence to Sessions if they have already begun ? Section 5, s. 20, and s. 29 all refer to the " next " sessions (or appeal committee) so it seems that strictly he may not be committed to a current sitting. By analogy from *R.* v. *South Greenhoe JJ.*, *supra*, apparently such a committal would be invalid and the committing magistrates could still deal with the offender on his being " returned empty " from sessions, so it is unlikely that the offender at any rate would object to an immediate committal, with the leave of sessions, to a current sitting. G.S.W.

THE GREAT TRANSFER

The Transfer of Functions (Minister of Health and Minister of Local Government and Planning) (No. 1) Order, 1951, S.I. No. 142, is the first formal step towards putting into force the decision of which we spoke in our first Note of the Week at p. 49, *ante*. The Order was made at a Privy Council held on January 29, laid before Parliament the same day, and took effect at midnight. January 30 was Tuesday; on Thursday, February 1, the gist of the Order was in the London newspapers, but its text was not available through ordinary channels until the following week, too late for comment in our issue of February 10. We make no complaint of this; this Order comprises a great deal of detailed printing, and no doubt those responsible desired to make certain of its accuracy. (This desire has not been quite achieved: the titles of the Alkali, &c. Works Regulation Act, 1906, and the Housing, Town Planning, &c. Act, 1919, are printed wrongly on p. 4. There may be other errors: we do not profess to have turned a proof-reader's eye upon it.)

The provisions made will disappoint some people, those (for example) who when they heard of the pending re-arrangement of functions maintained that environmental health services should remain with the Minister of Health. This could have been defended as being in line with the tendency of legislation in the last thirty years, accelerated in the last ten years, of functional proliferation, starting from Health and Transport in 1919 and for the moment ending with Fuel and Food. On the other hand, local government administrators with experience of both systems of arrangement are far from universally adherent to the functional system which, carried to its logical extreme, would mean that loans for each of a dozen different local services would have to be sanctioned by a dozen different controlling organs, thus destroying the whole point of the requirement of sanction. There is, indeed, a kind of rhythm or of fashion in these things. The early nineteenth century was a time of incoherent overlapping in the world of local government, with very little central and no local co-ordination. Such co-ordination as was centrally supplied tended, itself, to become diversified, when committees of the Privy Council hived off as functional boards. Then came the Local Government Board Act, 1871, bringing things together (at the centre) for a time, followed by a gradual (very gradual) increase in homogeneity and co-ordination of function in the localities.

The rhythmical sway, one way or the other, sometimes influenced by personality (a Joseph Chamberlain or a Lloyd George) can be seen in the Education Act, 1902, and the Local Government Act, 1929, steps towards an all-purpose local authority, and between them the Insurance Act, 1911, which was the precursor of the Ministries of Health and Transport and all the other numerous progeny of the Haldane Report. A member of Parliament writing in *The Times* a few days before the Order in Council of January 29 was made questioned whether, in the Ministry of Health as then existing, there was any senior officer who really understood how local government was carried on. The question was a natural one, thirty years after the Local Government Board was done away with; we could answer it, as the writer of the letter could not, in the affirmative for—although mention here of names would be invidious—there do survive a few (our readers mostly know them, and could pick them out in *Whitaker*) who joined the office of the Local Government Board in its last decade, and a larger number, of a later generation, whose service in the Ministry of Health was spent mainly in its self-contained Local Government Division. Reference, again, to *Whitaker* shows that the Secretary and Deputy Secretary of the Ministry of Town and Country Planning (as it was at the beginning of this year), although of post-1919 vintage, were officers whom for many years between the wars our readers had known upon the local government side of the Ministry of Health. We do not, therefore, upon any basis of inexperience in Whitehall, share the fears expressed about the re-marriage of local government and planning. We are, moreover, pleased to find that the Order of January 29 does not preserve such services as water and sewerage to the Minister of Health, and, above all, that local government finance, including audit and loan sanction, is apparently being treated as a whole, and as part of local government. This is vital to the re-integration which we hope to see in time, of the central management of such local services as must, upon national grounds, be managed and integrated centrally. We should even have liked to see some of the "retained Health functions," enumerated in Part II of the schedule to the Order, not retained but allowed to go to the Ministry of Local Government—for example, registration of births, deaths, and marriages, which has no more than a shadowy and doctrinaire "health" association, together with byelaws and compulsory purchase even in "health" matters. (We would indeed bring together in one Ministry, if we had our way, all compulsory acquisition of land for local government uses, irrespective of the particular purpose of the acquisition, and all confirmation of byelaws: this last, however, we would assign to the Home Secretary as a matter affecting, primarily, the Liberty of the Subject.) We are, at present, scepfical also about the wisdom of leaving to the Minister of Health the functions in regard to food conferred by the Public Health Act, 1936, the Public Health (London) Act, 1939, and, more numerous, the Food and Drugs Act, 1938. The issue is here complicated by other recent transfers of function, right or wrong, to the Minister of Food—one of the penalties of excessive functionalism in government being that a time comes when functions clash. We do not, however, overlook the parenthetic "No. I" in the title of the Order in Council, and we shall not be surprised if further attention to the details in the schedules, beyond what was possible in (what must have been) the very hurried preparation of that Order, produces further transfers.

Incidentally, there seems a queer piece of circular argument in relation to some of the items retained. By art. 3 (1) of the Order, functions specified in Part II of the schedule are excepted from transfer; by art. 3 (2) the excepted functions are for purposes of the schedule given the title "retained Health functions," and (we quote) "the expression 'Health matters' means matters as to which retained Health functions are exercisable." Then in the schedule the retained Health functions under the Public Health Act, 1936, are made to include authorization of compulsory purchase, confirmation of byelaws, etc., (again we quote) "so far as functions thereunder are exercisable as to Health matters." It may not be likely that a person convicted under a byelaw, or having his land compulsorily purchased, would go to the High Court with the argument that the byelaw had been confirmed, or the authorization for compulsory purchase had been given, by the wrong Minister, but the language of the schedule is plainly open to attack.

The Order as it stands, even apart from its subject matter and its possible tendency (as we believe) towards improvement in the organization of local government, possesses interest in the high constitutional field. Unless the practice has recently been changed, a summons to a meeting of the Cabinet refers to a "meeting of His Majesty's Servants" to be held at such and such a place and time. Ministers are, that is, the King's servants, and he is entitled to appoint any whom he needs—a Secretary of State as much as a personal secretary, a Minister of Agriculture as much as an under gardener at Sandringham. So much is fundamental to the constitution, but it follows from the fundamental theory that he must pay their wages out of his own pocket unless money is somehow otherwise available. For many centuries things worked out that way—the privy purse and the exchequer were not specifically identified; unless economy could be secured by employing a secretary or chancellor or clerk conveniently endowed with a bishopric or other ecclesiastical preferment, the appointee had to be provided by the King with land or other means of sustenance. When the hereditary revenues were given up and the civil list established, the cost of government being transferred to an exchequer controlled by Parliament instead of by the King, it was the endowment of the office and not the creation of the office which Parliament obtained power to stop through its holding of the purse strings. So also, we know no fundamental reason in the constitution why the King should not, if he pleases, transfer functions from one Minister to another *proprio motu*. This fundamental power has in practice been increasingly restricted, and in modern times rendered unworkable, by the practice of Parliament of tying specified functions to a specified Minister, to whom a specified revenue was given, so that one could not, without the risk of challenge in the Courts and the certainty of parliamentary challenge, do another's work. The interchangeability of work between Secretaries of State, still possible in most matters because there are very few where Parliament has said that a particular function shall be exercised by a particular Secretary, remains as a reminder of the original position.

In the present case, though the King could not have paid a Minister of Local Government as such out of the exchequer, and could not, apart from statute, have given him any of the statutory duties of anybody else, or any effective power to interfere with persons or with property, he could have appointed such a Minister in virtue of the prerogative. He has, however, not done so. Instead, and instead of going to Parliament for funds to pay a new Minister and finance a new Ministry, he has taken the already existing Minister of Town and Country Planning, given him a new style and title (in pursuance of a power in the Act of 1946, overlapping the prerogative), and under the same Act assigned other people's functions to him. It is an interesting speculation how far this process could be carried under the Act of 1946. Could an Order in Council, for example, assign all the functions of the Minister of Pensions to the Minister of National Insurance, thus rendering a sinecure office available for general purposes, like that of Paymaster General, or perhaps assign to the holder of the then sinecure office of Minister of Pensions the "home security" functions now exercised by the Home Secretary, which were a dozen years ago assigned to the Lord Privy Seal?

An interesting question, but irrelevant, because, in practice, the necessity for voting supply would give Parliament an opportunity to review the whole position. So, in the present case, the Order in Council provides that until the end of the current financial year the functions transferred from the Minister of Health to the Minister of Local Government and Planning are to be financed from the Votes for the Ministry of Health, *i.e.*, are not to be thrown upon the Votes granted for the Ministry of Town and Country Planning as it was when the financial statutes of 1950 were passed. In the financial year 1951-52 there will obviously have to be a re-arrangement of the money provision for both Ministries.

A minor point of at least academic interest is the absence from the Order of January 29, 1951, of any express reference to a seal of office. There is prerogative power to create a corporation sole, not less than a corporation aggregate, and to grant a corporate seal to either form of corporation, although in modern statutes providing for new Ministers it has been the rule to declare expressly that the Minister shall be a corporation sole and have a seal. Probably, however, the prerogative need not be relied on here; the Minister of Town and Country Planning brings his seal with him into his new office, and his new style and title are by art. 2 (2) of the Order in Council to be substituted for the old in all instruments. A seal, though it effectuates an instrument, and its attestation is (we suppose) an instrument (and though the seal is itself an instrument in the physical sense), is not an instrument in the ordinary sense in which the word "instrument" is used in legislation. We are inclined to think, accordingly, that the Order in Council might for the sake of technical completeness have made some mention of the seal to be used by the new Minister. It is not a point of any practical importance, but we should have liked to see it expressly ordained that there should be a seal for the Minister of Local Government and Planning.

THE COMMITTEE OF PUBLIC ACCOUNTS AND THE EQUALIZATION GRANT

In their fourth report published last year the Committee of Public Accounts made a number of comments about the Exchequer Equalization Grant and also about specific grants for particular services, all of which call for the most careful attention by all local authorities. We propose to record the observations of the Committee together with certain observations thereon which may be of interest.

Paragraphs 80 to 86 of the report refer to the matter under discussion. Paragraphs 80 and 81 read:

"The 1948-49 account included the first payments made under the Local Government Act, 1948, which substituted for the block grants previously made to local authorities from these votes a new system of 'equalization grants.' These grants are payable to those counties and county boroughs in England and Wales, and counties and large burghs in Scotland, whose rateable value per head of population (weighted for certain special factors) falls short of the respective national averages."

"Under this system the departments are in the position of large ratepayers, assessed by each authority on the amount of the deficit in the authority's rateable value when compared with the national average. The departments, however, unlike ordinary ratepayers, have no vote or similar means of influencing the budgeting of the local authorities, who can thus pledge the Exchequer's money in advance and without consultation."

We find ourselves unable to agree with all the contentions in para. 81. While it is true that equalization grant varies according to the level of a particular local authority's rateable value per head as compared with the national average, and that in this sense the departments (really the Ministry of Health) may be regarded as large ratepayers, to suggest that they have less influence on the affairs of local authorities than an ordinary ratepayer is to present a completely unreal picture.

Although the Ministry of Health are the particular department paying equalization grants, in considering the question of control the powers of every department in relation to local government should be borne in mind. The facts are that every major service administered locally is controlled centrally from Whitehall in a quite remarkable degree of detail. This can be clearly illustrated by an example or two.

Very little expenditure indeed can be incurred on the police service without the consent and blessing of the Home Office. The Home Secretary decides the rate of pay of every member of the police force and not only the rate of pay but also the amount of each allowance, *e.g.*, for subsistence, for being a detective, for boots, for maintaining a bicycle, and for renting a house (within maximum limits). The establishment of each force must also be approved by him, and no new building work can be started unless it has received his approval. It is easy to see who calls the tune here ! The same principles apply to the Fire Service. If it be said that these services are disciplined services of a semi-national character, and that such meticulous control is thereby justified, we can turn to other services, such as education and the care of children where these reasons have no application. This does not mean, however, that the control from the centre is in any way lessened. The major expenditure on education is in respect of teachers' salaries, and the level of this remuneration is fixed, and rates determined, by a national body over which a particular local authority has very little control. The provision of new schools and the enlargement or alteration of existing schools can only be carried out by grace of the Minister of Education who determines the total expenditure allowable in any one year to a particular authority, and has laid down detailed regulations as to the standard of construction.

In the case of children the same detailed control applies.

In most of the major authorities the expenditure which comes under close government control of this sort reaches usually up to about ninety *per cent.* of the total expenditure of the authority. There is obviously little comparison between the powers of a government department and those of an ordinary ratepayer, but precisely in the opposite way from which the Committee of Public Accounts have looked upon it.

Paragraph 82 of their report says :

" Payments on account of the new grants for 1948-49 totalled over £50 million. They were made to well over three-quarters of the authorities covered by the scheme and it is estimated that, in England and Wales, the full grants will meet from two to sixty-six *per cent.* of the receiving authorities' individual or twenty-four *per cent.* of their combined, expenditure. In Scotland, the corresponding figures are about one to seventy-five *per cent.* and twenty-eight *per cent.* In addition, certain other departments continue to make specific grants of varying percentages for approved expenditure on particular activities such as education and the health and fire services ; the equalization grants bring the exchequer's share of such expenditure in some areas to as much as eighty *per cent.*"

The statements in this paragraph are perfectly true, but should be looked at in proper perspective, and in this connexion two points should be remembered.

The first one is the relationship between specific grants and the exchequer equalization grant : this is well illustrated by the figures quoted in the second report of the research working party set up to examine the effects on local authority finances of the Local Government Act, 1948, and other recent legislation, published in *Accounting Research* for January, 1950. The figures are reproduced below, and they make it obvious that the departments control the services and give specific grants for them. The residue of the expenditure not covered by the specific grants qualifies for equalization grant, but in view of the detailed control exercised by all other departments, the fact that the Ministry of Health do not control expenditure in detail for the purposes of the equalization grant is unimportant. In fact, it would be a thoroughly wasteful procedure, and would merely result in much unnecessary duplication if an attempt were made to institute detailed control by that Ministry.

SOURCES OF INCOME 1948-49 REVISED ESTIMATE

	Fifty-seven county councils		*All county boroughs*	
	£,000	%	£,000	%
Specific government grants ..	129,905	49	62,236	37
Exchequer equalization and transitional grants	38,360	15	12,892	9
Local sources	95,682	36	91,206	54
Supplementary government assistance (war circumstances) ..	—	—	528	—
Total income (excluding specific income other than grants) ..	263,947	100	166,862	100

The other matter of interest relates to the method of calculating the equalization grant payable to a county council. The grant is calculated not on gross expenditure but on the net rate-borne expenditure of the county council and of all county districts within that county. However parsimonious or extravagent individual district councils may be, all receive the same *per capita* grant, the only difference being according to whether they are urban or rural authorities. It is not clear how far the committee have allowed for this factor.

Paragraph 83 goes on :

" In view of the novelty of these arrangements, under which a substantial part of the expenditure of bodies not subject to the normal system of Parliamentary control appears to be automatically chargeable against Parliamentary votes, your committee thought it their duty to examine the Ministry of Health on the question whether there is any check against the possibility that such arrangements might lead to extravagant expenditure. Time did not permit a similar examination of the Scottish Home Department."

It is difficult to say whether or not there is extravagance without detailed knowledge of the day-to-day working of all authorities. We think it undoubtedly true that in some of them, at any rate, there is a tendency to consider particular items of expenditure not according to the total demand made on public funds, but only according to the residue left to fall upon local rates after specific grants and equalization grants have financed the greater part of the expenditure. Further, although we do not suggest for one moment that it has actually happened, there is a possibility that certain representatives of employers' sides concerned with national wage or salary negotiations may be influenced in their decisions by the knowledge that only a

relatively small proportion of any increases granted would fall upon local rates. Judging from some recent national awards, however, we must say that the negotiators concerned have refused to be lured into extravagance in this direction wonderfully well.

Paragraphs 84 and 85 deal with district audit and other safeguards :

84. " The Ministry stated that they rely in the first place on their district audit system to bring to their notice any instance of extravagance. The district auditors report primarily to the local authority, but they also report to the chief auditor, who reports to the Ministry if necessary. The Act gives each of the Ministers concerned power to reduce a grant to a council whose expenditure he considers excessive and unreasonable, but only if such reduction is approved by resolution of the House of Commons. Apart from this, they have no powers to prevent expenditure of which they may disapprove."

85. " In these circumstances your committee consider that the working of these arrangements should be closely watched. They trust that the reports of the district auditors on the accounts of authorities receiving equalization grants and any other relevant information obtained by the departments concerned will be made available to the comptroller and auditor general, so that he may assist future committees of public accounts to judge, in the light of fuller experience, whether any modification in the arrangements is desirable."

For the reason stated earlier we consider that the broad powers already held by the Ministry of Health are sufficient safeguard. Incidentally, the committee do not seem to be aware that the accounts of most county boroughs are not subject to district audit, so that the safeguard of a district audit system does not by any means apply to all authorities.

Paragraph 86 states :

" They also hope that departments responsible for specific grants for particular services will take full account of the effect of the equalization grants and, if necessary, review the basis of determining their own grants. To this end they suggest that such departments should maintain close contact with the Ministry of Health or the Scottish Home Department and make available to them any information in their possession which might assist those departments in checking possible extravagance."

This paragraph, if taken seriously, could inspire considerable alarm among local councils. Here again the Committee seem to have had an incomplete and imperfect picture before them : otherwise they must surely have considered that to reduce specific grants to authorities receiving no exchequer equalization grant would be the height of injustice. Most authorities, in fact, would say that to reduce specific grants at all would be unjust, and that the Committee have been confusing two quite different types of grant.

The specific grant on a service is paid because of the recognition over many years that major services should be maintained at certain minimum national standards, and that the Government should accordingly help local authorities in attaining the standards the central department impose. The equalization grants, on the other hand, are not concerned at all with individual services but only with the resources available to a particular local authority to pay for the net cost of these services after specific grant has been taken into account. When this distinction is appreciated, the true position of the control of extravagance becomes clear, namely that it is to be controlled on the individual services by the individual departments. The whole trend of the Public Accounts Committee's observations makes one think that the evidence before them must have been quite incomplete : they appear to have ignored absolutely the major part played by the other departments in the control—perhaps " encouragement " would in many cases be a more accurate description—of local expenditure on major services.

The substantial point that the Committee's observations really bring to mind is in relation to the proportion of local expenditure met from the National Treasury. Is it not, in some cases, far too large ? Against this is may be argued that in many areas local rates are still at very high levels, but may not this position be due to valuations being too low ? We shall probably be able to judge better when the new re-valuation is completed.

THE PUBLIC UTILITIES STREET WORKS ACT, 1950—III

By J. R. LLOYD, *M.A. (Cantab.)*

(*Concluded from p. 105 ante*)

In the last article the Act was considered from the point of view of the public utility undertakers and their rights and obligations under the Act. It is now proposed to examine the other side of the picture, and to consider the rights and obligations of the street authorities and managers.

A.—CONSIDERATION OF WORKS PROPOSED TO BE EXECUTED BY UNDERTAKERS

The procedure for the submission and settlement of a plan and section of the proposed works has been discussed in both the preceding articles and reference will now only be made to the more important aspects affecting the street authority or managers concerned. The authority or managers concerned must give their decision on the plan and section submitted within twenty-nine days, or, in the case of a service pipe, service line, or overhead telegraphic line only, within eight days ; otherwise the plan and section will be deemed settled by agreement. On approving a plan and section subject to modifications or on disapproving them the authority must state their reasons for so doing.

If the authority approve a plan and section subject to modifications, or disapprove them on the ground that part or the whole of the works should be executed in controlled land, they must be satisfied that they will be in a position, by exercising their powers under sch. I, to confer on the undertakers the right to execute the works in the controlled land within twenty-two days from the date of the settlement of the relevant plan and section. The right to execute the works is given by authorization of the street authority. Before the authorization is given the street authority must publish in a local newspaper a notice of their intention to give the authorization and, not later than the day of publication of the notice, serve a like notice on every person being an owner, lessee, or occupier of the controlled land or of any part thereof. No person is entitled to question the power of the authority to give the authorization, or the validity of the authorization when given, in any proceedings begun later than the expiration of one month from the date of publication of the notice. The authorization may be given

as to undertakers' works generally, or as respects a particular class of such works, or as respects particular works.

The street authority are liable to pay compensation to the owner of any interest in the controlled land which is diminished in value by the giving of an authorization, or by the execution of authorized works in the controlled land. If the undertakers elect to carry out works in controlled land instead of in the street without being required to do so under s. 5 of the Act, they will be liable to repay to the street authority any compensation paid by them in respect of those works unless the authority consider it reasonable that the compensation should be borne by them. If the cost of the undertakers' works is less by reason of their being carried out in controlled land instead of in the street, the undertakers must pay to the authority who gave the authorization the amount of the cost so saved. Complementary to this, if the cost is increased by carrying out the works in controlled land the street authority must pay the amount of the increased cost to the undertakers, unless the undertakers have themselves elected in the first instance to carry out the works in controlled land instead of in the street.

An authorization given under sch. 1 is irrevocable, but if the land to which it relates ceases to be within the definition of controlled land the owner, lessee, or occupier thereof may by notice to the undertakers determine their rights and powers over the controlled land. The street authority are liable to pay to the undertakers the reasonable cost incurred by them, in removing their apparatus from the controlled land and in taking other measures consequential upon a notice determining their powers.

B.—PROSPECTIVELY MAINTAINABLE HIGHWAYS

If a local authority wish to exercise the control granted by the Act over a street which, whether a highway or not, is not maintainable by the inhabitants at large they may declare that the street is likely to become so maintainable if they are satisfied that that is the case. The declaration must be registered in the local land charges register in accordance with the Public Utilities Street Works Act, 1950 (Registration of Declarations) Rules, 1951. The appropriate local authorities to make such declarations are borough and urban district councils in relation to streets in their respective areas, and the county council in relation to a street in a rural district. Where undertakers' works are executed in a street which is prospectively a maintainable highway the street authority are under an obligation to the street managers by virtue of s. 9 of the Act to ensure the performance by the undertakers of their duties with regard to reinstatement, prevention of obstruction, and safety during the execution of the works.

C.—REINSTATEMENT

Schedule 3 provides that in any case in which undertakers are required by the street works code to reinstate a street or controlled land after the completion of works involving the breaking up or opening thereof, other than works relating to a service pipe, service line, or overhead telegraphic line not in the carriageway of a trunk or classified road, the street authority or managers may by notice to the undertakers elect to do the permanent reinstatement or any part thereof at upper levels. This right of election does not apply to a street being a highway which is not a maintainable highway and which no person is liable to the public to maintain or repair. The street authority or managers may give notice of election in respect of all undertakers' works in a particular street or controlled land, or of a particular class of such works, or they may give a separate notice in each case. Where no general notice has been given a separate notice must be given without delay after the authority knows that the works are intended, and in any case not later than eight days after the relevant plan and section are settled. The undertakers are liable to the electing authority or managers for the cost reasonably incurred by them in reinstatement. During the period of reinstatement by an electing authority it is the duty of that authority to secure observance of the requirements of the Act as to fencing, guarding, and lighting.

D.—CODE IN PART II OF THE ACT

Where the execution of any street, bridge, or transport authority's works will affect undertakers' apparatus, notice of the intention to execute the works must be given to all the undertakers concerned. If the undertakers claim that the proposed works will require works to be executed by them, then particulars of the undertakers' works must be agreed or settled by arbitration and carried out at the expense of the road, bridge, or transport authority concerned. The authority concerned, called in the Act "the promoting authority," may themselves require undertakers to carry out any necessary works to their apparatus, subject to like provision for payment of the reasonable cost. The obligation on the promoting authority to pay the undertakers' reasonable costs is avoided in both the above cases if notice that the authority's works are intended was given by the promoting authority to the undertakers, within eight days from the date on which the intention to place the apparatus affected was signified to the authority, and within twenty-nine days from that date a plan and section of the authority's works were furnished to the undertakers. The promoting authority's works must be substantially begun within two years from the date on which notice was given by them, and they must be executed without material departure from the plan and section submitted.

Part II of sch. 4 provides for the application of the code in Part II of the Act where two or more operations are executed by different promoting authorities on the same occasion. One of the authorities becomes the "negotiating authority" and exercises the rights granted by the schedule and Part II of the Act on behalf of all the other authorities.

E.—RESTRICTION ON BREAKING UP A HIGHWAY

Undertakers cannot exercise their powers to break open a maintainable highway during the twelve months following either the end of any period during which the use by vehicles of the carriageway has been prohibited, or the width thereof reduced to less than two-thirds, for the purposes of the execution of road works or the completion of a re-surfacing of one-third or more of the width of the carriageway. This restriction is subject to the highway authority's having given to the undertakers more than three months' notice of their intention to execute the works or resurface the road, and to the beginning of the works within one month of the date specified in the notice. Undertakers retain their right to break open the highway for emergency works, or any part of the highway other than the carriageway for the purposes of works relating only to a service pipe or service line or an overhead telegraphic line or an overhead electric line, but, in the case of a placing of a service pipe or a service line, only if it is for affording a supply or service to premises to which it is not already afforded. The highway may be broken up or opened during the restricted period with the consent of the highway authority, which consent must not be unreasonably withheld. In the event of a dispute the question of reasonableness is to be settled by the Minister of Transport, acting jointly with the Minister in charge of the department concerned with the purposes for which the power to break open is conferred.

WEEKLY NOTES OF CASES

COURT OF CRIMINAL APPEAL

(Before Lord Goddard, C.J., Devlin and Barry, JJ.)

R. *v.* McLELLAND

February 5, 1951

Criminal Law—Sentence—Fine—Not to accompany order of conditional discharge—Criminal Justice Act, 1948 (11 *and* 12 *Geo.* 6, *c.* 58), *s.* 7 (1), *s.* 13.

APPEAL against sentence.

The appellant was convicted at Andover Quarter Sessions of housebreaking, three other offences being taken into consideration. The chairman made an order under s. 7 (1) of the Criminal Justice Act, 1948, for the conditional discharge of the appellant for twelve months, and also fined him £10 and ordered him to pay £10 towards the costs of the prosecution.

Held, that, as a fine was a " punishment " within s. 7 (1), and as, under that subsection, an order of conditional discharge could be made only where the court was of opinion that it was inexpedient to inflict punishment, such an order could not be accompanied by a fine. The court would vary the sentence by substituting a fine of £10, payable in weekly instalments of £1 starting from the day of the judgment, credit being given for anything paid since the notice of appeal, and, in default of payment of any instalment, six months' imprisonment, together with an order for the payment of £10 costs.

Counsel : *Ian S. Hill* for the appellant. The Crown was not represented.

Solicitor : *Registrar, Court of Criminal Appeal.*

(Reported by T. R. Fitzwalter Butler, Esq., Barrister-at-Law.)

R. *v.* BARKER

February 5, 1951

Quarter Sessions—Committal to quarter sessions for sentence—Identification of prisoner—Criminal Justice Act, 1948 (11 *and* 12 *Geo.* 6, *c.* 58), *s.* 29 (1).

APPEAL against sentence.

The appellant pleaded Guilty at a court of summary jurisdiction at Newport to obtaining money by false pretences and asked that thirteen similar offences should be taken into consideration. He was committed under s. 29 (1) of the Criminal Justice Act, 1948, for sentence to Monmouthshire Quarter Sessions, where he was sentenced to five years' imprisonment.

THE COURT, in dismissing the appeal, called attention to the fact that the proper practice in such a case is that at quarter sessions the prisoner should be asked whether he admits that he is the person mentioned in the conviction or else he should be identified by a police officer as such person.

Counsel : *L. J. Griffiths* for the appellant. The Crown was not represented.

Solicitor : *Registrar, Court of Criminal Appeal.*

(Reported by T. R. Fitzwalter Butler, Esq., Barrister-at-Law.)

REVIEWS

Questions and Answers from the Justice of the Peace and Local Government Review, 1938 to 1949. Edited by A. J. Chislett. London : Butterworth & Co. (Publishers) Ltd., Shaw & Sons Ltd. £5 5s.

This is the sixth volume to appear, of *Questions and Answers from the Justice of the Peace*, the first having been issued in 1877, almost immediately after the Public Health Act, 1875, and so being practically coeval with *Lumley's Public Health*, to which in a sense it can (though not consciously designed to serve as such) be regarded as a companion work. The volumes have not each covered precisely the same number of years, but it will be seen that, on an average, they come out at about twelve years per volume. The twelve which the present volume covers were years of special difficulty. The war meant that our weekly output of Practical Points had to be diminished by reason of the paper shortage, and also that our intake of queries tended, largely, to relate to transitory topics. The remainder of the subjects dealt with has been roughly handled, by legislation passed between the end of hostilities and the end of 1949, so that the learned editor, who is clerk to the county justices for Wallington, has had a heavy burden, first in eliminating matter of no permanent interest and secondly in making sure that answers, given upon the law as it stood throughout the greater part of the period covered by the volume, still hold good under very recent legislation. So far as we have been able to discover, in the short time since the work became available, he has performed both tasks successfully : indeed the only slip we have detected is in P.P. 12 on p. 475, formerly at 113 J.P.N. 436, where second thoughts which we had published in a Note of the Week at 113 J.P.N. 573, soon after answering the query, have evidently been overlooked by the learned editor of the volume. The work is divided under main headings, substantially corresponding to those which had been worked out for purposes of our weekly publication of Practical Points, the most important topics such as criminal law, rating and valuation, highways, and so forth, being given these and similar headings, and sub-divided suitably—the main title " highways," for example, falls into ten sub-headings, and rating and valuation into eight, falling under three numbered groups, and some of them further sub-divided. In this way it should be possible to find quickly the views which we have expressed on every topic included ; there is also an exceptionally good index to the whole. The work has also a table of statutes, and an ample table of cases, in which we are glad to see that the apparatus of references has been completed in the manner usual to Messrs. Butterworths standard textbooks : that is to say, so as to give all the reports for every case—which by considerations of space we are precluded from doing in our weekly columns.

The result is that by consulting such headings, for example, as " criminal law " or " recovery of rates," and following up any case references given, the practitioner (we should say) is likely to find an answer to pretty well every ordinary problem, since, in the twelve years covered, such problems are almost sure to have occurred to one at least of our readers, and to have been sent to us for our opinion. The same is equally true of topics like local government elections, highways, husband and wife, landlord and tenant, and many others. These are mines of information : we are gratified in particular to be reminded by this volume how widely our Practical Points column has come to be regarded as something of an authority, upon the difficulties inherent in the Rent Restrictions Acts. We feel justified, also, in calling attention to the extent to which we have been invited by readers to advise them, on matters such as the ordinary law of contract and tort, which lie outside our specialized purview. The variety of topics is noticeable, when one finds them thus collected, and we can fairly emphasize the fact that this is not an academic work. Every question in the volume is a live question to which some person (usually an experienced professional man) has not been sure of the answer, and questions which have arisen once can arise again. We believe it would be difficult to find, elsewhere than in these volumes, the considered answers to so many daily problems. It is hardly for us, who were editorially responsible for the expressions of opinion upon the legal matters here treated, to say more about the reliability of the work than that we hope the volume will prove as useful on the shelves as we have reason to think the Practical Points column has been, week by week, upon subscribers' desks. We may, without egoism, point out in this connexion that all our published answers have to stand fire by a highly critical body of readers. We not infrequently receive supplementary questions, and criticisms of our view of the law, with which we deal in further published answers, so that each of these volumes covering twelve years or so should be regarded as in a sense a co-operative effort, in which the law has been checked by the great body of clerks to justices and legal advisers to local authorities, as well as by our editorial staff. We therefore feel justified in being confident about the utility of the book, not merely for our regular subscribers but also for others in the legal profession and related occupations, who may not be subscribers to the *Justice of the Peace and Local Government Review* itself. Since Mr. Chislett is not a member of our staff, it is fitting that we should finish this review with a tribute to the industry which must have been displayed, in examining and arranging so large a body of printed matter. It bears the date of November, 1950, so there has been no long gap for legislative changes or new decisions to come along since the volume left his hands. It can thus be regarded as completely up to date in the matters which it includes. It is convenient in size, being uniform with its predecessors, and has attractive type on sound paper of good wearing quality, an important consideration in a book destined, as we hope, to be handled every working day for several years.

LAW AND PENALTIES IN MAGISTERIAL AND OTHER COURTS

No. 11.

INSURANCE CARD FRAUD

A fifty-seven year old man appeared at Swansea Magistrate's Court on January 11, 1951, charged under s. 52 (1) of the National Insurance Act, 1946, with knowingly making a false representation for the purpose of obtaining for himself sickness benefits. The false representation alleged was that because of incapacity for work through sickness or injury defendant had not been at work since the date of the last medical certificate, *viz.*, December 10, 1949, whereas in fact he had continued at work for a named company.

For the prosecution, it was stated that a doctor had issued medical certificates in respect of the defendant since 1935, except for a period when the doctor was on active service, and there was a case history stating that defendant, in earlier years, had suffered from epilepsy. So far as the Ministry was concerned, it was thought that the defendant had not been working at all since July 5, 1948, but suspicion was aroused when a National Insurance card for the year 1948-1949 was returned in the name of the defendant. Defendant was interviewed by an inspector after it was ascertained that he was using his son's insurance number, and he first stated that he had not held an insurance card for a very long time as he had not been working since 1924, and he mentioned that he had fits twice a month.

Inquiries were made at the Employment Exchange, and as a result, the secretary of a building concern was interviewed, and it was discovered that defendant had been employed there since October, 1946, at an average wage of £4 10*s*. The sum obtained by fraud from the Ministry amounted to £122.

The defendant, who pleaded guilty to the charge, said that he was in debt and did not know which way to turn.

The learned stipendiary magistrate, Mr. Llewellyn Williams, K.C., passing sentence of three months' imprisonment, stigmatized the offence as a deliberate fraud conceived to obtain money from the National Insurance whilst defendant was working the whole time.

COMMENT

It is right that offences of this nature, which are difficult to detect and highly detrimental to the State, should be firmly punished when they come to light and although defendant's punishment in this case was severe no responsible person would be found to say that it was one jot too severe.

It will be remembered that s. 52 of the Act under which this prosecution was brought also makes it an offence to buy, sell, exchange or pawn any insurance card or used insurance stamp and all offences under the section are punishable on summary conviction with a fine of £100 and three months' imprisonment. R.L.H.

No. 12.

A PERNICIOUS HUSBAND

A fifty-seven year old Llanelly man appeared at Swansea Assizes in December last charged with living wholly or in part on the earnings of prostitution contrary to s. 1 (1) of the Vagrancy Act, 1898.

The defendant was also charged and pleaded guilty to three charges of stealing a bag and two suit cases containing clothing valued in all at £140, and for the latter offences he was sentenced to three years' imprisonment.

The defendant pleaded not guilty to the first charge and evidence was given for the prosecution that defendant was unemployed and lived with his wife. He visited public houses in Swansea with his wife with a view of getting men to have intercourse with the wife at a price.

A police constable, who had been in defendant's company while on plain clothes duty, said: "defendant appeared to me like a salesman offering an article." Another police constable stated he heard defendant telling another man: "Are you looking for a woman? I can put you right with my wife."

Defendant, in evidence, denied the allegations and the conversations referred to above, and said that he did not know that his wife had been carrying on as had been stated. He had merely introduced his wife to friends in the normal way.

After the jury had found the prisoner guilty of the offence, Mr. Justice Oliver said: "This is the worst case of that detestable crime I have ever come across. It is a degrading enough occupation at the best of times, but it is made much worse when the woman is your wife. The law permits me to give you two years' imprisonment which you will have to serve at the end of the three years of imprisonment I impose for the other offences."

COMMENT

It is to be remembered that the Act of 1898, which amends the Vagrancy Act, 1824, provides in s. 1 (3) that where a male person is proved to live with or to be habitually in the company of a prostitute and has no visible means of subsistence, he shall, unless he can satisfy the court to the contrary, be deemed to be knowingly living on the earnings of prostitution.

By s. 7 (1) of the Criminal Law Amendment Act, 1912, for the words "and has no visible means of subsistence" set out above there were substituted the words "or is proved to have exercised control, direction, or influence over the movements of a prostitute in such a manner as to show that he is aiding, abetting, or compelling her prostitution with any other person or generally."

Section 7 (5) of the Act of 1912 provides for a term of imprisonment of two years on conviction on indictment and provided also for whipping as an additional punishment in the case of a second or subsequent offence, but this latter provision is, of course, no longer effective. R.L.H.

PENALTIES

Brierley Hill—January, 1951—(1) obtaining £4 by false pretences, (2) obtaining £2 by false pretences—six months' imprisonment, each charge to run concurrently. Defendant, who asked for five similar offences to be taken into consideration, represented that he could arrange for the delivery of unrationed coal so long as he was first given the money, and he obtained a total of £12 10*s*. from seven householders. Defendant supplied no coal. Defendant was also dealt with for a breach of recognizance having been placed on probation for two years at Hereford in July last for an identical offence. For this defendant was sentenced to two months' imprisonment to run consecutively with term of six months' imprisonment.

Liverpool—January, 1951—attempting to evade customs duty on 5,200 cigarettes—fined £50 with the alternative of three months' imprisonment. No time allowed. Defendant, the second engineer in a Swedish motor vessel. Cigarettes found in the funnel casing.

Pontardawe—January, 1951—defacing walls by painting slogans on them (four charges)—to pay 16*s*. costs. Defendant, described as a respectable man and an enthusiastic member of the Welsh National Party, painted what he considered to be appropriate slogans on walls in public places in Clydach.

Monmouthshire Quarter Sessions — January 1951 — stealing mechanized and electrical apparatus from garages (five charges) —three years' imprisonment. Defendant, a twenty-seven year old policeman, committed all the offences while on patrol.

Birmingham—January, 1951—attempting to obtain 10*d*. by altering a time-card (two charges)—fined a total of £6. Defendant stated that he did not seek financial gain but to test the efficiency of the wages office of his employers and he had expected to receive recognition from his firm.

Redditch—January, 1951—(1) drunk in charge of a car, (2) driving an uninsured vehicle—(1) three months' imprisonment, (2) fined £10—licence suspended for two years.

Coventry—January, 1951—wilfully neglecting five children in a manner likely to cause unnecessary suffering (two defendants)—each sent to prison for fourteen days. Husband of thirty-nine and wife of twenty-nine had five lodgers and a total income of £18 5*s*. per week. The children's ages ranged from eleven months to ten years.

Norwich—January, 1951—(1) using a goods vehicle without a goods licence, (2) no driving licence—fined a total of £2 10*s*. Defendant's goods licence was found to be six years out of date.

Staple Hill—January, 1951—stealing 5*s*.—twelve months' probation. To return the 5*s*., and pay 17*s*. 6*d*. costs. Defendant, a woman of forty-two, took the money from the handbag of a friend when having tea at her house. She stated she had no money and wanted some cigarettes.

NEW COMMISSIONS

WALSALL BOROUGH

Miss Mary Dean, 4, Willows Road, Walsall.
George Parker, Abermere, Lodge Road, Walsall.
Harold Kenneth Preston, 488, Sutton Road, Walsall.
William Henry Selvey, 97, Somerfield Road, Bloxwich, Walsall.
Fred Thickett, 171, Dickinson Drive, Walsall.
Harold Wootton, 31, Victoria Avenue, Bloxwich, Walsall.

THE WEEK IN PARLIAMENT

By Our Lobby Correspondent.

CRUELTY PENALTIES

Mr. J. K. Vaughan-Morgan (Reigate) asked the Secretary of State for the Home Department in the Commons whether he would issue a letter to magistrates drawing their attention to the strong public feeling which existed on the subject of the inadequate penalties imposed in cases of cruelty to children.

The Secretary of State for the Home Department, Mr. Chuter Ede, replying in the negative, said he was always reluctant to send circular letters to magistrates. They alone had the facts of a particular case before them and were competent to decide what the penalties in that case should be. He had no doubt that the publicity given to the problem in recent months, in the House and elsewhere, would have drawn magistrates' attention to the public feeling on the question.

LEGAL AID

Lt.-Col. M. Lipton (Brixton) asked the Attorney-General to what extent service applicants had to pay more under the present scheme of legal aid than previously under the forces scheme.

The Attorney-General, Sir Hartley Shawcross, replied that under the new scheme members of the services contributed towards the cost of their case if, and to the extent that, their means and the general circumstances allowed. In many cases they would receive aid without payment of any contribution. Under the previous scheme they were required in all cases to pay the out-of-pocket expenses of their solicitor which were usually not less than £8 and were sometimes more. The answer was, therefore, that in some cases service applicants were better off than under the old scheme and in some were not so well off, depending in each case upon the particular circumstances of the applicant and of his case. He and the Lord Chancellor were closely watching the actual practice of the scheme in regard to the contributions payable both by service and other applicants.

Mr. D. Weitzman (Stoke Newington) asked the Attorney-General whether he was aware that in a number of cases persons receiving legal aid were being asked to pay by way of contribution towards costs a sum in excess of what they were previously required to pay by solicitors acting on their behalf in the ordinary way; and what steps he would take in the matter.

The Attorney-General replied that persons receiving legal aid were asked to contribute the amount that the case would actually cost, unless their maximum contribution, determined by the National Assistance Board was less than that figure. The committees who granted legal aid, therefore, had to estimate what the probable cost of the action would be in assessing the amount of contribution. If they overestimated, the surplus was, of course, refunded at the end of the case. It did appear that in some cases their estimates had been on the high side, but so far little experience of the actual cost of a legal aid case had been gained, and committees had been anxious not to charge too little with resultant risk of cost to public funds. The Lord Chancellor was in consultation with the Law Society on that matter, and it was likely that some guidance would be given to those committees as to the actual cost of the more usual type of case, so as to avoid overestimates in future.

LAW OF LIBEL

Mr. C. W. Black (Wimbledon) asked the Attorney-General whether a decision had yet been reached to introduce legislation to give effect to the recommendations of the Porter Committee for the amendment of the law of libel.

In reply, the Attorney-General declared that he could not say when it would be possible to introduce legislation to give effect to the recommendations of that Committee.

MATRIMONIAL CAUSES RULES

Mr. S. Storey (Stretford) asked the Attorney-General whether he would make a statement upon the conclusions of the Supreme Court Rules Committee as a result of their consideration of amendments to the Matrimonial Causes Rules with a view to their consolidation and particularly of the question whether the pronouncing of a decree in a divorce action should be notified by the Court to the respondent.

The Attorney-General replied that the Matrimonial Causes Rules, 1950, which came into operation on January 1, 1951, consolidated and made a number of amendments in the earlier rules. The Supreme Court Rules Committee decided that it would be unjustifiable, in view of the amount of work involved, to require the Court to notify the respondent of the making of a divorce decree.

PARLIAMENTARY INTELLIGENCE

Progress of Bills

HOUSE OF LORDS

Tuesday, February 13

TRANSPORT (AMENDMENT) BILL, read 3a.

Thursday, February 15

CONSOLIDATED FUND BILL, read 2a.

HOUSE OF COMMONS

Monday, February 12

CONSOLIDATED FUND BILL, read 2a.

Tuesday, February 13.

CONSOLIDATED FUND BILL, read 3a.
LIVESTOCK REARING BILL, read 3a.

Wednesday, February 14

MINERAL WORKINGS BILL, read 1a.

WORK

Either too much or too little,
Either a flood or a drought,
Never exactly sufficient—
Either with work or without.

Either too busy or idle,
Either a shortage or reams,
Never exactly sufficient—
Always a case of extremes.

J.P.C.

PRACTICAL POINTS

All questions for consideration should be addressed to "The Publishers of the Justice of the Peace and Local Government Review, Little London, Chichester, Sussex." The questions of yearly and half-yearly subscribers only are answerable in the Journal. The name and address of the subscriber must accompany each communication. All communications must be typewritten or written on one side of the paper only, and should be in duplicate.

1.—Adoption—*Grandparents—Child born to man by a married woman—His parents take care of child and wish to adopt—Child's mother abandons child—Consent of mother and her husband—High Court.*

A and B, the lawful parent of C, have applied to my justices to adopt an infant D, alleged to be, and shown on its birth certificate as, the son of C by a married woman X.

C first met X, then a married woman, in 1940, and shortly afterwards intimacy occurred and the child D was born on March 5, 1942. In August, 1941, when pregnancy confirmed, C and X commenced living together as man and wife, but up to that time they lived in different towns about eight miles apart. Between January and August, 1941, X's husband is alleged to have been serving in the Navy overseas, and not to have had home leave. After the child D was born X's husband returned home, was interviewed by C and informed of birth of child, and the husband did not claim paternity. Shortly after this X abandoned C and the child which was taken care of by A and B, and has been in their custody ever since. Neither C, nor X, nor X's husband, have ever contributed anything to the support of the child and their present whereabouts are unknown.

Your advice would be appreciated on the following points:

1. Could my justices properly dispense in this case with the consent of the mother X and her husband?

2. C can only say that so far as he is aware there was no access between X and her husband at the material times. Is such limited evidence of non-access sufficient?

3. Is there any objection to the adoption of D on the grounds that it would make C the brother of his natural son?

4. Is this a case that should in the circumstances be dealt with by the High Court? JAGA.

Answer.

1. It appears that the evidence would justify dispensing with X's consent, and with that of her husband if the court, on the evidence, thought his consent necessary.

2. Possibly so, but it is hard to say without hearing C's evidence in full.

3. and 4. 3. is a difficult question, and having regard to *Re A. B. (an Infant)* [1949] 1 All E.R. 709, we think that the justices may well feel that this is a case which should be dealt with by the High Court.

2.—Children and Young Persons—*Probation—Requirement to report to police.*

It has been suggested that as a means of dealing with juvenile offenders they might be ordered to report to the police at a police office periodically, say on Saturday afternoons or in the evenings. There are as yet no attendance centres in this area. Assuming the police are willing to co-operate, have the juvenile court any power to order this to be done, and what are their powers of enforcing compliance with such an order. In cases where a probation order is made it would seem that this method, which is in the form of a punishment, is not available and in any case the juvenile has from time to time to report to the probation officer and it would not seem right to take these cases out of his hands. S.P.T.

Answer.

Unless it be made a requirement of a probation order, there appears to be no power to order such reports and certainly no power to enforce compliance. We share the doubts of our correspondent as to the validity of such a requirement which we discussed at p. 275, *ante*. While we are not prepared, in the absence of authority, to say definitely the procedure is illegal, we feel that it is better to abstain from making such orders, for the reasons given by our correspondent.

3.—Food and Drugs Act, 1938—*Milk—Mixing by pasteurizing agent.*

I would like to vary slightly the circumstances outlined by "Amensa" in P.P. 5 at 114 J.P.N. 590.

A sample of milk purchased from A is found unsatisfactory. He says that he, in turn, purchases it from a producer B and delivers it himself to a pasteurizing agent C. The milk is not purchased by C but only pasteurized on A's behalf. No statutory notice to take further samples from a corresponding delivery is received from A but, for information purposes, a further sample is taken in course of delivery from C to A at C's premises and the milk is again found unsatisfactory.

C says that it is not practicable to keep A's milk separate from other milk during pasteurization. Further samples show that milk from all sources entering C's premises is genuine.

It would be possible to proceed against A because, as the milk from different sources has been mixed, he loses the right to have further samples taken. This would, however, be unfair to A as the fault would seem to be C's, and in view of the sample in course of delivery from C to A he would be certain to receive a sympathetic hearing.

Your opinion is desired as to whether any proceedings are possible against C. AMB.

Answer.

We doubt whether A "loses the right to have further samples taken"; the milk was not "obtained by him from more than one person" as provided by proviso (*b*) to para. (2) in sch. 3. It was all, it seems, "obtained by him" from B; after he obtained it, he subjected it, through an agent C, to a process which he could not control, after which it was found unsatisfactory. If he were to serve a notice and have milk sampled *en route* from B to himself, this would help to establish whether B's milk is to blame, or some other milk which finds its way to C. We doubt whether C is a "dairyman" as defined in the Act of 1938, and we are not clear about the nature of the proceedings contemplated against him. He cannot be got at under s. 3 because he does not sell. We should be inclined to proceed against A.

4.—Guardianship of Infants—*Venue for summary proceedings.*

We are acting on behalf of a wife in respect of an application against her husband for an order under the Guardianship of Infants Acts respecting the child of the marriage.

The parties have been living apart since about February last when the husband left the matrimonial home at X, where the wife continued to reside, and went to live at Y. After the summons was served upon him in October at Y and before the hearing, the husband returned to the matrimonial home at X and the wife then left and went to reside in the same district of X. Relying upon the case of *R.* v. *Sandbach JJ., ex parte Smith*, the solicitor for the husband contends that as the matrimonial home was at X, that is where for the purposes of jurisdiction the husband lived and the summons should have been served there and the justices for that area should adjudicate. We contend that the husband had deserted his wife and therefore had abandoned the matrimonial home and for all material purposes he was living at Y where he was in fact living at the time of the issue and service of the summons, and that the justices for that area are those proper to adjudicate. If it were otherwise we feel that great difficulty would be experienced in having a case dealt with at all because the husband might keep changing his address either from necessity or design and he would in fact have no settled abode.

Another interesting point has arisen out of the same matter and that is assuming that so far as the application of the wife is concerned the proper jurisdiction is at Y, can the husband issue a counter summons to be heard by those justices against the wife, who is actually residing at X? We think Y justices should hear both summonses, otherwise it would mean that two separate bodies of justices would have to hear each application and this would appear to create an absurdity.

We would appreciate your views on each of the points mentioned. TURIN.

Answer.

It appears that when the summons was issued the husband had left the matrimonial home and the wife had then no reason to think he would return. We think the justices at Y had jurisdiction because the husband was resident in their district, and we do not think they had lost that jurisdiction just because the husband has since moved to another district.

As to an application by the husband, a summons against the wife would have to be issued where she is residing, but we do not think such a summons is necessary, because once the matter is before the court on the application of either party, the court can make such order as it thinks fit: Guardianship of Infants Act, 1886, s. 5; Administration of Justice Act, 1928, s. 16. This would seem to enable the court to give custody to the father although the applicant is the mother of the infant.

A very recent case on residence is *Hopkins* v. *Hopkins*, [1950] 2 All E.R. 1035.

5.—Housing Act, 1949—*Improvement of house—Sections* 4, 20 *and* 43.

A property mortgaged to this authority under the Small Dwellings Acquisition Acts is in a dangerous condition. It was erected under

a building licence and is subject to a maximum selling price fixed under s. 7 of the Building Materials and Housing Act, 1945. The foundations of the property were not properly constructed and a sum of £600 will have to be spent to carry out work to ensure its future security. Section 4 of the Housing Act, 1949, authorizes *inter alia* a local authority to advance money for the purpose of repairing houses, although that section is headed " power of local authorities to make advances for purposes of increasing housing accommodation." When this work has been carried out there will be no increase in the housing accommodation provided, but the house will have been repaired. In addition, subs. 3 (*b*) of that section states that " the amount of the principal of the advance shall not exceed . . . in any other case, ninety *per cent.* of the value which it is estimated the mortgaged security will bear when the . . . repair . . . has been carried out." Although after the works have been completed a further £600 will have been spent on the repair of the property, it is doubtful whether the estimated value of the property, if it was to be sold, would be increased by that sum. Indeed, unless the maximum selling price were amended by direction given by the local authority under s. 43 of the Act, it could not, in fact, be sold at any figure in excess of the maximum permitted selling price. A further consideration is whether or not the proposed works of repair would entitle the owner to apply for a grant under s. 20 of the Act. It appears to be clear that works which are designed to prevent the complete disintegration of the property must be regarded as an improvement of housing accommodation.

The town clerk is of the opinion that in this particular case the local authority would be entitled, subject to the approval of the Minister of Health, (1) to make an improvement grant of up to fifty *per cent.* of £600 and to make an advance of £300 under s. 4, secured by a further legal charge, or, (2) in the event of the owner's not requiring an improvement grant, to make an advance of the full amount of £600 under s. 4, secured by a further legal charge, (3) in either event, to issue a direction under s. 43 increasing the permitted selling price of the house by £600 for the purposes of s. 7 of the Building Materials and Housing Act, 1945. ALP.

Answer.

We are not sure that value under s. 4 (3) (*b*) of the Act of 1949 is related to selling price under s. 7 of the Act of 1945, but this is beside your real points. We agree with your conclusion.

6.—Landlord and Tenant—*Rent Restrictions Acts—Alternative accommodation—Same premises minus part.*

I am a little worried concerning your reply to P.P. 5 at 114 J.P.N. 544. In reply to the inquiry as to whether a part of garden can be taken away from statutory tenants, you state that under s. 15 (3) of the Act of 1920, a tenant holds over on the terms and conditions of the original contract. Whilst I agree entirely that this is correct, it does however occur to me that the inquiry is concerned as to whether there is any method of obtaining possession of this piece of land. It has been held in *Thompson* v. *Rolls* (1926) 95 L.J.K.B. 901, that the landlord could obtain possession of a house and offer as alternative accommodation a part of the same house. Upon this principle it would seem that in the present case the landlord could first of all, by notice to quit, make certain that the tenants were holding as statutory tenants and then apply for possession of the whole of each house and appurtenances under s. 3 (1) of the 1933 Act and offer, by way of alternative accommodation, the house and garden, less the part required. Following *Thompson* v. *Rolls* I feel that possession might probably be given. It has been held in a number of cases that the court is concerned only with the needs of the tenant and his family. *See Blundell's Rent Restrictions Guide* (3rd edn.) at p. 84. The position is not without some doubt, as it has been held that the same premises are not "other accommodation " within the meaning of the Act : *Gratton* v. *Spence* [1948] E.G.D. 275. This case has however been queried. APROS.

Answer.

We are obliged to you for restating the argument, but so long as *Gratton* v. *Spence* is the last word (and it seems to us a sensible word) upon this point, the better view seems that which we took in the answer cited. Otherwise s. 15 (3) would be easily evaded.

7.—Local Government Act, 1948—*Legality of expenditure—Contribution to art and craft society.*

Will you let me know if a council can make a grant under s. 132 of the Local Government Act, 1948, to an art and craft society, to enable it to furnish a studio ? If the grant can be made, will it affect the issue if the society caters for persons outside the boundary of the council ? AMP.

Answer.

We are not sure how an art and craft society uses its studio. Whether it comes within s. 132 depends on whether there is " entertainment." If people, from the district or from outside, are to be entertained (within the scope and intention of the section) then the council can contribute to the cost of furnishing the studio. But it looks rather thin, and, if such a grant is shown in accounts subject to district audit, we should expect the auditor to want some satisfying.

8.—Rating and Valuation—*Owner's purported abandonment of property—Liability for rates.*

A company own twenty houses in a row which are tenanted. Notice to quit was given to each tenant on March 23, 1950, which was accompanied by a letter stating that the company were abandoning the premises and would not accept any further rent. Also included in the letter is a request that general and water rates due to the corporation be paid by the tenants direct. The corporation do not agree to collect the rates direct from the tenants and have consequently summoned the company for non-payment of rates with a view to recovering the same. It is now contended by the company that they are no longer owners of the property as defined by the Rating and Valuation Act, 1925, the company having abandoned the property, and that no rents have been collected since April, 1950.

Your opinion would be appreciated upon :

1. Can the company be considered owners as defined by the said Act ?
2. Has the court power to order the recovery of the rates from the company if the answer to (1) is negative ?
3. Generally. A.F.N.

Answer.

The company are owners ; the council can, and should, enforce payment by the company, and the magistrates must grant process. We assume, since no other person's rights are mentioned, that the company's estate is a freehold estate of fee simple ; we assume also that the cottages are, as regards value, etc., within the limits making the owner liable for rates. Whilst a freeholder in fee simple is not obliged to receive the profits of the land, or to protect his interest (against squatters, for example), his neglect in this respect can not excuse him from his obligations. Under the old common law, he had duties to the Crown ; he still has duties as regards taxes, rates, public health, the Housing Acts, etc. Nor, indeed, can he by neglect relieve himself of his liabilities in tort, *e.g.*, if dilapidation of the property causes injury.

OFFICIAL ADVERTISEMENTS, TENDERS, ETC. (*contd.*)

URBAN DISTRICT COUNCIL OF ABERDARE

Appointment of Clerk of the Council

THE Urban District Council of Aberdare invite applications from solicitors for the appointment of Clerk of the Council at a salary of £1,173 10s. 0d. per annum.

The successful candidate will be required to devote his whole time to the statutory and other duties of his office and will not be permitted to engage in private practice as a solicitor. He will also be required to carry out all the legal work of the council, to perform all the statutory and other duties devolving on and assigned to him by the council, to attend all the meetings of the council, and their committees and their sub-committees, and to reside within the Urban District of Aberdare.

The appointment will be subject to the Local Government Superannuation Acts, to the regulations made by the council with respect to their staff, and passing satisfactorily a medical examination by the council's medical officer of health.

The appointment will terminate by three months' notice in writing from either side.

Applications, stating full name, address, age, qualifications and experience, including local government experience, if any, and the date on which the applicant will be able to commence duty if appointed, accompanied by copies of not more than two recent testimonials, should reach the undersigned not later than Saturday, March 17, 1951.

J. J. PARRY,
Deputy Clerk to the Aberdare U.D.C.

Town Hall,
Aberdare.
February 17, 1951.

COUNTY BOROUGH OF WARRINGTON

Appointment of Children's Officer

APPLICATIONS are invited for the appointment of Children's Officer (male or female) at a salary within the range of Grade V (*a*) of the A.P.T. Division of the National Salary Scales (£550—£610 per annum).

Applicants should have had experience in social work and the care and welfare of children. A degree of a British University or a Social Science Diploma is desirable but not essential.

The duties will include those contemplated by the Children Act, 1948, together with such other duties relating to the welfare of children as the council may from time to time determine.

The appointment will be subject to :

(1) The National Joint Council's Scheme of Conditions of Service.

(2) The Local Government Superannuation Act, 1937.

(3) The passing of a medical examination.

(4) The termination on either side by one month's notice.

There is no official form of application.

Applications, stating age, qualifications and experience, accompanied by three recent testimonials, should be addressed to and reach the undersigned not later than Saturday, March 10, 1951. Canvassing will disqualify.

J. P. ASPDEN,
Town Clerk.

Town Hall,
Warrington.
February 23, 1951.

WEST SUSSEX COMBINED PROBATION AREA

Appointment of Female Probation Officer

THERE is a vacancy for a whole-time female probation officer for the above area (Worthing division).

The appointment and salary will be subject to the Probation Rules, 1950. Possession of a car will be an advantage.

Applications in writing stating age, present position, qualifications and experience, with the names of two referees, to reach me by March 17, 1951.

T. C. HAYWARD,
Secretary to the Committee.

County Hall,
Chichester.

CITY JUSTICES' OFFICE, LIVERPOOL

APPLICATIONS are invited for the undermentioned appointments, *viz* :

1. Male Clerk, cashier's department (including maintenance department). Salary within the scale £395 × £15—£440, according to age and experience. Applicants must have had experience in dealing with cash transactions and accounts.
2. Male Clerk. Salary : (General Division Scale). £135, per annum at age sixteen, by annual increments to £385 at age thirty-two, according to age. Applicants should be between sixteen and twenty-two years of age.

The appointments are subject to the Local Government Superannuation Act, 1937, and the successful applicants will be required to pass a medical examination. Applicantion forms may be obtained from the undersigned upon receipt of a stamped, addressed envelope and should be completed and returned not later than March 10, 1951. Applicants for appointment (1) should endorse envelope "Cashier's Dept."

H. A. G. LANGTON,
Clerk to the Justices.

City Magistrates' Courts,
Dale Street,
Liverpool 2. (JA 2510).

WARWICKSHIRE COUNTY COUNCIL

Clerical Division Clerk

APPLICATIONS are invited for the appointment of Clerk (male) in the office of the clerk of the Warwickshire county council at an annual salary in accordance with the clerical division of the National Scheme of Conditions of Service, *i.e.*, £395 rising by three annual increments of £15 each to £440. Applicants must have had experience in legal work or in local government. Experience in the work arising in connexion with the Local Land Charges Register would be an advantage.

The appointment will be subject to the provisions of the Local Government Superannuation Act, 1937, and of the National Scheme of Conditions of Service and to the production of a satisfactory medical certificate.

Applications to be made on forms, which will be supplied on request, must be returned so as to reach the undersigned not later than March 5, 1951.

L. EDGAR STEPHENS,
Clerk of the Council.

Shire Hall,
Warwick.

CITY OF SALFORD

Appointment of Full-Time Male Probation Officer

APPLICATIONS are invited from persons between the ages of twenty-three and forty (except in the case of a serving full-time probation officer) for the appointment of probation officer.

The appointment will be subject to the Probation Rules, 1949-1950, and the salary according to the scale prescribed thereby, subject to superannuation deductions.

The successful applicant may be required to undergo a medical examination.

Applications, stating age, qualifications and experience, together with copies of not more than three recent testimonials, should be sent to the undersigned and not later than March 10, 1951.

J. W. REAVEY,
Secretary to the Probation Committee.

Justices' Clerk's Office,
Magistrates' Court,
Town Hall,
Bexley Square,
Salford, 3.

COUNTY BOROUGH OF SWANSEA

Appointment of Assistant Solicitor

APPLICATIONS are invited for the appointment of Assistant Solicitor at a salary within A.P.T. Grade VIII (£685—£760), the commencing salary to be fixed having regard to the experience of the successful applicant.

Applicants should possess experience of advocacy, but local government experience is not essential.

The appointment is terminable by one month's notice and is subject to the Local Government Superannuation Act, 1937, and the conditions of the National Scheme of Conditions of Service adopted by the Council. The successful candidate will be required to pass a medical examination.

The corporation will make housing accommodation available if required.

Applications, stating age, qualifications and experience, and giving the names of two persons to whom reference can be made, must be delivered to the undersigned not later than Thursday, March 8, 1951.

Canvassing, either directly or indirectly, is prohibited and will be a disqualification.

T. B. BOWEN,
Town Clerk.

The Guildhall,
Swansea.
February 13, 1951.

Printed by R. J. ACFORD Ltd., Terminus Road, Chichester, Sussex, and published by the Proprietors, JUSTICE OF THE PEACE, Ltd., at the Office of the "Justice of the Peace and Local Government Review," Little London, Chichester, Sussex. SATURDAY, February 24, 1951. Price 1s. 8d., post free 1s. 9d.